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SELECT COMMITTEE ON INFORMATION
TECHNOLOGIES

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SENATE
SELECT COMMITTEE ON INFORMATION TECHNOLOGIES
Monday, 3 May 1999

Members: Senator Ferris (*Chair*), Senator Bishop (*Deputy Chair*), Senators Calvert, Harradine, Lundy, McGauran, Stott Despoja and Tierney

Senators in attendance: Senators Bishop, Calvert, Ferris, Harradine, Lundy and Tierney

Terms of reference for the inquiry:

- (a) evaluate the development of self-regulatory codes in the information industries;
- (b) monitor the personal, social and economic impact of continuing technological change created by industries and services utilising information technologies;
- (c) examine the government's decision to establish a regulatory framework relating to illegal or offensive material published and transmitted through online services such as the Internet; and
- (d) inquire into and report on such other matters as may be referred to it by the Senate.

WITNESSES

BRITTON, Mr Charles Crawford, Senior Policy Officer, IT/Communications, Australian Consumers Association	198 220
BUN, Ms Mara, Manager, Policy and Public Affairs, Australian Consumers Association	198 220
CARRUTHERS, Mr Luke Alexander, Secretary, Internet Industry Association . . .	296
CHEAH, Mr Christopher Michael, General Manager, Regulatory Framework and Bandwidth, National Office for the Information Economy, Department of Communications, Information Technology and the Arts	313
CORONEOS, Mr Peter, Executive Director, Internet Industry Association	296

FRITH, Prof. Stephen Hamilton, Director (ACT), Young Media Australia	226
HOLTHUYZEN, Ms Fay, Deputy Chief Executive, National Office for the Information Economy, Department of Communications, Information Technology and the Arts	313
JONES, Mr Alan Bradley, Chief Executive Officer, Clareview Internet Pty Ltd . . .	277
JUPE, Ms Toni Heather, Media and Communications Manager, Young Media Australia	226
MARKUS, Mr Donald Frederick, General Counsel, Australian Government Solicitor, outposted to the Department of Communications, Information Technology and the Arts	313
MARZBANI, Mr Ramin, Principal, www.consult Pty Ltd	208
McCREA, Dr Philip George, Commonwealth Scientific and Industrial Research Organisation	163
NICHOLSON, Ms Jennefer, Acting Executive Director, Australian Library and Information Association	190
PATTEN, Ms Fiona Heather, President, Eros Foundation	259
RITZ, Dr Dorothee, Business Affairs Director, AOL Bertelsmann Online Services .	243
SWAN, Mr Robert James, Publisher, Eros Foundation	259
TAYLOR, Mr David Ross, Chief R&D Engineer, Clareview Internet Pty Ltd	277
VERIGA, Ms Carol Ann, Managing Director, AOL Bertelsmann Online Services . .	243
WARD, Mr Michael Francis, Director, Internet Industry Association	296

Committee met at 9.23 a.m.

McCREA, Dr Philip George, Commonwealth Scientific and Industrial Research Organisation

CHAIR—Welcome. I declare open the fourth public hearing of the inquiry by the Senate Select Committee on Information Technologies into the Broadcasting Services Amendment (Online Services) Bill 1999. Today we will be hearing from representatives of a range of industry, government and community groups. At the end of the day, there will be an opportunity for senators who might wish to have a demonstration of Internet access provided by an expert from the Parliamentary Information Systems Office.

We are starting today's hearing with Dr Philip McCrea, one of the co-authors of the CSIRO report in June 1998 which examined the technical aspects of blocking material delivered over the Internet.

The committee prefers that all evidence be given in public but you may at any time request that your evidence, part of your evidence or answers to specific questions be given in camera and the committee will consider any such request. As a public servant, you will of course not be asked to comment on matters of policy. Instead of providing us with a submission, I assume you are here to address your report, which we already have. We have before us the executive overview from your report and copies are available to the public from the secretariat. I invite you to make an opening statement before we move to questions.

Dr McCrea—Thank you. I take it time is curtailed because of my late arrival due the Canberra fog, for which I must apologise.

CHAIR—Let's see how we go.

Dr McCrea—I have about 10 slides which summarise the gist of the report which CSIRO prepared last year for the National Office for the Information Economy on the technical aspects of blocking content on the Internet.

Overhead transparencies were then shown—

Dr McCrea—My presentation is more of a tutorial and most of you will probably be familiar with this. The point of my first slide is to illustrate that access to the Internet by either a content producer or a receiver of content is via a modem and Internet service provider. This is entirely reciprocal, to the extent that anyone who is a receiver or a normal user of the Internet has the potential to be a content producer. This is the basis of the problem that we face.

So, where can content be blocked? Intuitively, there are three places. You can block content at the source, where it is prepared and put on the web; in transit, by the Internet infrastructure; or at the receiver's end. I will discuss each of these in turn.

In terms of blocking content at the source, I commented that anyone can be a content producer on the Internet. This is unlike radio, television, magazines and the conventional

media where there are very few content producers and very many receivers, viewers or readers of that content, and it is comparatively simple to put forward a regulation mechanism to monitor what is produced. In the case of the Internet, we have many on both sides and it is difficult, if not impossible, to monitor and block information that is posted at source.

Turning to blocking in transit, which was the main focus of the report, I have a map that attempts to portray the infrastructure of the Internet. This is the Internet globally—outside of Australia. Most of the content on the Internet comes from outside Australia purely by volume of users connected to the Internet. There are relatively few international connections to the wider Internet. These BSPs—backbone service providers—are the large ISPs that, in turn, feed the smaller ISPs. There are some 600 ISPs in the country all of which are connected together via the Internet and, at the very end, we have the Internet users. So it is a hierarchical system.

There are two ways that we could block content at the Internet infrastructure level. One is what we call the application level. This is where you compile a list of web sites, newsgroups or whatever, but you are aware of the application. The application in the case of www.playboy.com, for example, is the World Wide Web. You could form a list of sites that you wanted to block and have those blocked somewhere along the infrastructure. The other way is the packet level, where there is no understanding of the content of the Internet packets, but it is the address where it comes from that you can block against. I will cover both of these briefly.

When we talk about blocking on the Internet, we tend to refer to application level blocking. Here we have a couple of sources, one of which could be a web source and the other an ftp, a file transfer protocol. In terms of accessing a file from another computer over the Internet, there is an end user and an Internet service provider who prevents access to the Internet by its clients and forces users to go through a proxy server. The proxy server compares all outgoing requests to the Internet against a list that you might call a black list of prohibited sites. This will work and it is used in several sites across the country, mainly education sites. We point out quite a few areas where it can be bypassed. Sites can be renamed at will, in fact almost overnight, and non-standard port numbers can be employed—the port number refers to the application like the web, mail and so forth. If you only block the standard web port or application number you can specify a different one and that will not be blocked.

Web site identities can easily be obscured. Not everyone accesses the net through an ISP. For example, large organisations like the CSIRO or universities do not have ISPs; we are connected directly to the Internet. Most companies if they are global would have a global network and would access the Internet through their own global environment, possibly not through a local ISP. There may be some performance costs as well. We have made an attempt to quantify those, but it is not conclusive.

The second, and probably less known, method is blocking at what we call the packet level. It is important to understand that everything that is transferred on the Internet is by packets of information, unlike a telephone line where it is just straight voice over a dedicated line. For information to get to where it is going, each packet obviously has to have the address of the destination machine. It also has the address of where it has come from, and

that ‘from’ address—that is, the source of the information inside the payload—is ignored normally by the routers or the computers that make up the network.

If you did want to block at the packet level, then the hardware could be set up to look at this source address and compare it against a black list of source addresses and prevent the packet from going further. That is technically quite possible and, at some cost, is doable in real time, according to the information we have from hardware providers. Some of the problems with the packet blocking level are that it is very indiscriminate. By specifying a particular IP source address—that is, you are blocking information from a particular source—you could take out an entire ISP, for instance, and you could create a big hole in the Internet inadvertently. We make the comment that this could damage the fledgling information economy infrastructure on which this country’s future depends.

It could be bypassed by tunnelling. Tunnelling is a concept of burying a packet inside another packet, such that the inside packet is invisible. It is commonly used particularly in what we call ‘virtual private networks’. In corporations where you have three or four sites you can connect them together so it appears to be a single site. The inside packets which are not visible to the Internet are extracted at the destination and it is as if it is an extension of the office. Of course not all traffic in Australia passes through a backbone service provider. If you work for some of the multinationals, then it may come through a dedicated line.

You recall there are three places where we could implement some sort of blocking. The first is at source. The second is in the infrastructure—that is, in transit. The third is blocking at the user’s end. This would be blocking as a result of some initiative by the user. There are two variants here. One is that the user can run filtering software on his or her PC at home, and that could filter against key words, for instance, that the user sets up. It could also filter against labels which have been placed on Internet content under schemes such as PICS. PICS has fallen out of vogue, or at least the labelling on PICS has fallen out of vogue, because people tend not to label their web sites.

The second approach requires recognising that it is possible to provide some sort of filtering by an ISP. Our conclusion was that this is probably the most effective form of filtering. It can be done at this level with the user opting to subscribe to a filtered service or a straight non-filtered service. The end user would exercise the choice. It would obviously require the ISPs or at least some of the ISPs to provide both a filtered and an unfiltered service. The advantage is that the electronic commerce infrastructure is not affected because the choice is made at the user end.

I guess there are two types of filtering that could be employed at this level. One can be what we might call a black list, which is where the user says, ‘There is a set of material I don’t want to see’—or, ‘I don’t want my children to see,’ which is probably a more relevant situation—or we could use what we might call a white list. A white list is a list providing access to material which has specifically been vetted and approved. A white list is obviously a much more safe approach to filtering because you know that someone somewhere has given this particular content a tick. There are quite large white lists around that can be purchased, mainly from the US. There are black lists as well that can be purchased from the US as well.

In conclusion, we concluded that filtering is technically possible at the Internet level. If it is to be done by backbone service providers—after coming across the Pacific—possibly packet level filtering would be the most appropriate. If it is to be done at the ISP level, bearing in mind there are some 600 ISPs, then probably filtering against black lists would probably be the most appropriate. But our conclusion was that filtering is probably best done closer to home. It is more effective at home because it takes away the risk of taking away part of the legitimate electronic commerce infrastructure which we are developing globally. It requires ISPs, or at least some of the big ISPs, to cooperate. My intuition is that ISPs should see this as providing a competitive advantage. Speaking as a parent and speaking personally, not as a representative of CSIRO, I would pay a premium to subscribe to a service which I thought provided a safer environment for my children to look at. That concludes a summary of the paper which is available from the CSIRO web site and also the NOIE web site.

CHAIR—Thank you, Dr McCrea. We will go first to Senator Bishop.

Senator MARK BISHOP—You made a reference in your presentation to a small number of backbone service providers and about 600 ISPs. Roughly how many BSPs are there in Australia, who establishes them and what is their purpose? In respect of the 600 ISPs, can we reasonably expect growth in that number as the information economy develops and becomes more prevalent over time?

Dr McCrea—The number of backbone service providers is small and they tend to be the names that you would be aware of like Telstra, Optus, Ozemail and connect.com. Basically the larger ISPs, the people who can afford trans-Pacific links, are the backbone service providers. I think their numbers are growing as the MCIs and the global communications companies set up a presence in Australia. They would be ISPs in their own right but they would wholesale capacity to the much smaller ISPs. Telstra Big Pond are a consumer or business Internet service but they also provide wholesale connectivity to ISPs further downstream. So it is purely hierarchical.

In relation to the second part of your question, the numbers of ISPs have been stable over this past two or three years at about the 600 level. Market analysts have forecast that there would be a rationalisation, that is, the numbers would be reduced significantly, but the only rationalisation that has occurred has been at the big end of town, not at the small end of town. So there are a large number of what might be called garage operators serving communities. That number has not dropped. It is unlikely to rise; as the Internet becomes the standard infrastructure for business, I think we will see the larger ones become larger and possibly the smaller ones will fall away.

Senator MARK BISHOP—Is there a great deal of excess capacity for reselling in the existing BSPs that are in the market at present?

Dr McCrea—I do not know, and I think that would be commercial-in-confidence to themselves. All of Australia's connection to the Internet, coincidentally, comes in across the Pacific via the US. We buy our content from the US, and most of the world does that. The US is the hub of Internet traffic in the world. We are putting in cables which will take

Australia to other parts of Asia and Europe without having to go through the US. But the capacity would be commercial-in-confidence to the backbone service providers themselves.

Senator MARK BISHOP—All right. This online services bill does not apply to businesses or organisations that have their own internal modes of communication, as I understand it, and does not apply to live time activity. If you exclude those two aspects of Internet activity, what percentage is left that would be regulated by this bill? Do we have any idea?

Dr McCrea—By live time activity I assume you mean things like Internet chat forums, electronic mail and that kind of thing.

Senator MARK BISHOP—That is right.

Dr McCrea—I cannot answer that. My intuition tells me that the non-live time component, the web pages, the news groups and so forth, would be by far the largest amount of traffic on the Internet. Bear in mind that a picture, which I imagine would probably be the greatest source of concern, requires a large amount of information to describe it compared with a page of text. The most amount of information, I think I would be correct in saying, may be pictures or non-textual information. Text compresses very well but pictures do not. I have seen some figures recently that indicate that gif files, which are pictures and others, take up quite a large percentage of the Internet traffic, but I cannot give you the figures.

Senator MARK BISHOP—The reason I was asking that question is that every time you open up a business paper or a communications paper you read stories about nearly every start-up company establishing their own in-house communication system. Certainly a lot of financial and IT multinationals seem to relocate to the eastern seaboard, bringing with them their own internal systems. I wondered how much was left out there in the public domain, so to speak, that can be accessed by ordinary people. How much of a problem is this?

Dr McCrea—I do not quite understand the question.

Senator MARK BISHOP—Increasingly a lot of businesses are setting up their own internal communication systems and lines.

Dr McCrea—Running over the Internet?

Senator MARK BISHOP—Yes, and hence will not be regulated by this act if it is passed. I am trying to work out in my own mind how much is then left.

Dr McCrea—I cannot answer that. That would be implemented by the tunnelling process which I referred to. It will certainly increase as businesses take advantage of the virtual private network facilities on the Internet. It means that any organisation in transit, such as an ISP, would be aware that tunnelling was taking place, because you could tell that this packet contains another packet. So it is possible for an ISP to be aware that tunnelling is taking place, but it is a different question being able to read the contents, which would probably be encrypted anyway. If it is being tunnelled, there is an element of secrecy about it, so it would probably be encrypted as well.

Senator MARK BISHOP—So it would be fair to assume that the activity of tunnelling and the like is, first, something for the aficionados or the experts and, secondly, a relatively minor amount of traffic?

Dr McCrea—I cannot give you the figures, but my intuition tells me that tunnelling—that is, virtual private networks—would probably be a minor part of the Internet traffic at the present point in time. It certainly is for the aficionados, because all the different nodes that make up the virtual private networks obviously have to agree on protocols and things to use. It is not inconceivable that an organisation like CSIRO, which has hundreds of sites throughout the country, could use tunnelling. In fact, we use the Internet extensively but we could set up tunnelled environments between, say, different sites in a division—which is something that we are looking into at the present moment.

Senator MARK BISHOP—But it does have quite legitimate business and commerce and privacy purposes, doesn't it?

Dr McCrea—Yes. There is nothing sinister about tunnelling. It is quite a legitimate way of using the Internet to get information privately between two sites.

Senator MARK BISHOP—My final point goes to your comments at the end, Dr McCrea, about the cost of ISPs offering a choice of services. I tend to agree with you that a lot of parents would like to access software that has a filtering system built in to screen material that their children might choose to access. Do you have any idea of the potential market there, apart from your own feelings as a parent?

Dr McCrea—I do not. Various surveys have been done to imply that the public at large is not concerned with blocking material on the Internet, but I am not aware of any surveys that have been aimed fairly at parents of young children. My intuition tells me that the view would probably be the same as my own—and here I must emphasise that I am not speaking as CSIRO but as an individual.

Senator MARK BISHOP—Understood. Thank you, Dr McCrea.

CHAIR—Senator Harradine, did you have some questions?

Senator HARRADINE—We are nearly out of time.

CHAIR—I think we are going to run over a little.

Senator HARRADINE—I will confine myself to a very few questions. I am speaking to you as a scientist and not about what you think about other surveys or whatever. I do not quite know where that fits into your role. What is your role in the CSIRO?

Dr McCrea—I have a business development role in the CSIRO Division of Mathematics and Information Sciences. I have a background in the IT industry. I am not a researcher per se. My role is to help create collaborative research projects with industry for the CSIRO.

Senator HARRADINE—Have you or your organisation given any attention to concentrating on the development of blocking devices?

Dr McCrea—We have not given any attention to that as a research area. CSIRO's site does not use proxy servers, so we do not actually have direct experience with filtering on the Internet as an organisation, to my knowledge—certainly, our division does not.

Senator HARRADINE—What is Moore's law, translated into computer terms?

Dr McCrea—Moore's law is effectively the doubling of IT computing capacity per year or a reduction in cost. In relation to computing ability, I guess the implications are that computers get faster and cheaper, that Internet traffic probably doubles or at least keeps pace and outstrips Moore's law, and that the capacity of computers to do more processing increases.

Senator HARRADINE—Thank you, Doctor.

Senator LUNDY—I refer to some evidence we had previously from the National Office of the Information Economy, who advised the committee that in fact they had put forward another series of requests to the CSIRO for subsequent investigation into this matter. Can you enlighten the committee as to the work you are currently undertaking for the National Office of the Information Economy?

Dr McCrea—Yes. I have a copy of the subsequent report, which we have just completed. It was amplifying some aspects of our first report and trying to quantify performance penalties that might be experienced as a result of filtering by ISPs. This was only a short piece of work, and we did this by a case study of a particular ISP who provides content filtering for a quite large client. We were hoping to get ideally a graph of speed degradation against number of users, but it did not come out that way. We discovered that there is relatively little performance penalty with the size of the black list, if the black list is straight URLs, as in 'Block all the following URLs or newsgroups' or whatever.

Senator LUNDY—So we are talking about an application level blocking model?

Dr McCrea—Yes. What the client of the ISP found out was that it was impractical to actually implement blocking using a straight list of web sites or whatever. They had to have intelligent software that came up with rules along the lines of 'Block all sites that relate to, pertain to or are associated with something or other.' So it was not just a straight list. That blocking appeared to be reasonably effective. The only metric that we could come up with was that, without any blocking, a request going through a proxy server out to the Internet would take three milliseconds. With the filter turned on, an average request took between 80 and 100 milliseconds; so it was about 30 times slower. That was for that particular client, who is quite a large one.

Senator LUNDY—With respect to that model, where does that sit in your schematic about the different types of blocking of content? Does that sit in your point about the application level and proxy black list filter, or does it sit more at the level of ISP differential services?

Dr McCrea—In this case it was not differential, because all the end users of this ISP got the blocked service whether they wanted it or not. Clearly, it was an educational user. So it was not differentiated. That was it, and that was what they got.

Senator LUNDY—But does that ISP also offer different types of services to other clients?

Dr McCrea—Yes, of course, but there is no option—

Senator LUNDY—So it does qualify as a differential service—

Dr McCrea—There is no option given as to, ‘Do you want a filtered or an unfiltered service?’ You are given the unfiltered one. There are several ISPs around the country that have contracts with education departments that do something similar, I think.

Senator LUNDY—So the basis of that contract with that educational institution was to provide a service of that nature.

Dr McCrea—Yes, I presume so. I did not see the contract, but I am assuming that.

Senator LUNDY—I think we know where to go to ask those questions, Dr McCrea. The other question I have relates to this further work you are doing for the National Office of the Information Economy. What status does that currently have in terms of the request and who you provide that information to?

Dr McCrea—I am not sure what the status is. The IP—the intellectual property—belongs to NOIE. I think it is best addressed to NOIE. There is nothing sinister about the report that we would feel uncomfortable about if that is what you are referring to.

Senator LUNDY—We will have the option to speak to NOIE this afternoon. That is my understanding, Chair?

CHAIR—It will be later this afternoon, at the end of the day.

Senator LUNDY—Going back to your original report, ‘Blocking content on the Internet’, the one to which you have been referring to today: on what basis was that originally commissioned by the National Office of Information Economy?

Dr McCrea—It was a public tender. CSIRO responded to that and we were lucky enough to win the tender. CSIRO is required to act commercially these days, and this is one of our successful tenders.

Senator LUNDY—Turning to a couple of the technical points you mentioned, particularly about tunnelling, to what degree do changes in our digital infrastructure and the move to buy our major carriers to construct digital networks impact on some of the assessments you have made in this report, particularly with respect to things like frame relay and the ability of virtual private networks to be created?

Dr McCrea—I do not quite understand the question. I am not a telecommunications expert.

Senator LUNDY—It is an observation of mine that there is a lot happening in investment into digital networks both through Telstra's previous future mode of operation—

Dr McCrea—Correct.

Senator LUNDY—and also their mooted data mode of operation roll-out, which is suggested in the media as costing \$1 billion for the introduction of a new data network. I guess what I am looking for is some indication from you as to how that sort of infrastructure and those sorts of data networks could actually change some of your conclusions or indeed proliferate the growth of virtual private networks and hence the opportunities for the concept of blocking to have less relevance to Internet content in Australia.

Dr McCrea—I do not see that it would change the conclusions, and our conclusion was that filtering is finer, the closer it is to the user. The fact that Telstra and other carriers are moving towards IP or Internet based provision of services would not necessarily change that. It probably would imply that tunnelling would become the norm between offices of corporations, but I cannot speak for Telstra.

Senator LUNDY—And the notion of Internet protocol—or IP—forming that point of convergence for voice data being transferred across the Internet: how do you think that that trend will actually impact on the loads and speeds that you have nominated as being affected by any blocking technology?

Dr McCrea—That is a good question. As we move to total digitalisation of service over the Internet and it is likely that all fax and voice traffic will be carried over IP networks through Internet service providers and the like, I guess the amount of traffic will increase enormously—which means that there is more traffic to filter or check against and more computing grunt will be required to be applied to filtering. Most filtering though at the application level would probably be looking for webpages and it is quite easy to differentiate webpage traffic from other traffic—or it could be FTP traffic. So while there is a lot of other information, the filtering would probably remain the same with additional computational requirements.

Senator LUNDY—But in terms of the actual technical process with all of that IP based traffic, under your model of application based blocking all that traffic would be required to go through the proxy server and it would only be the URLs, for example, or a methodology using rules that would actually be blocked.

Dr McCrea—Yes, it would probably depend on the ISP. With an ISP that did not offer a voice service there probably would not be much of a change, but for a large ISP like Telstra or Optus or whatever which was offering voice services, filtering out the odd web packet from billions of voice packets could boil down to finding needles in haystacks, I guess. So there would be considerably more computational power required.

Senator LUNDY—In your general assessment, would the complexities of effective blocking become far greater as this trend towards IP being the central point of convergence progresses?

Dr McCrea—It certainly is not going to get any less. Some of the sites in the US that provide lists have hundreds of thousands, if not millions, of URLs which are on their black list. I believe that is growing exponentially. If the number of black lists is growing, certainly the amount of traffic is growing at at least the same rate. With services like voice and fax moving over, the same IP networks would grow significantly greater than that.

Senator LUNDY—Just going back to the points about tunnelling and addresses being easily obscured, you mentioned port numbers, et cetera, as ways of changing the identity of web information for the purposes of avoiding black lists or blocking technology. What are the trends for those methodologies, particularly encryption technology and also the construction of virtual private networks?

Dr McCrea—Can I explain the trends in user—

Senator LUNDY—In utilising the technologies relating to tunnelling and how people are being encompassed in a black list if they are actually trying to avoid it.

Dr McCrea—Tunnelling can be used quite legitimately, and it is most of the time. It is quite possible for groups who want to have private communication, who are up to mischief or no good in the eyes of the law or others, to use off-the-shelf tunnelling software to have private communications.

Senator LUNDY—Is that readily available from the Internet?

Dr McCrea—I presume it is. Your average ISP can set up a service in a garage; the amount of capital required to acquire this off-the-shelf technology is not huge. Encryption software is the same; it comes almost at zero cost these days. It is built into browsers, for instance.

Senator LUNDY—Does encryption software play a large role in the concept of tunnelling or the ability of Internet users to avoid blocking technology or is it something distinct?

Dr McCrea—Encryption and tunnelling are quite separate. They both carry out the same thing of enabling information to get between two parties in a private manner. You can send stuff over the public Internet—without tunnelling—which is encrypted on the assumption that the two end points understand the key to break the encryption. But that is computationally intensive and tunnelling would be a more elegant solution from a network perspective where there are not the same computation requirements either end to break open the packets and decrypt them.

Senator LUNDY—You mentioned in your report the side effects of any blocking technology and the impact on the emerging information economy and infrastructure. In your assessment, to what degree would the implementation of what you describe as packet level

blocking affect the operation of the information economy and, more specifically, the policy direction the current government is trying to go in establishing Australia as a hub for electronic commerce in the Asia-Pacific region?

Dr McCrea—Recognising that I cannot comment on policy of government, our conclusion was that packet level blocking, that is, looking at the packets to see where they have come from, regardless of what they might contain—and this was supported by various other people in the industry that we spoke to—could inadvertently take out huge sections of the Internet community around the world. Whether that is a social community or a commercial community, we do not know. If Australia aims to position itself as a hub, like the US, or a forwarding point for Internet traffic to South-East Asia and our local geographic area, and if we have filtered traffic coming in by virtue of where it has come from and then sell that information or pass it on to other countries or jurisdictions, I guess that may affect our ability to operate commercially, if the same Internet feeds could be obtained from other sources unfiltered.

Senator LUNDY—Out of the three blocking options, you have made it clear by virtue of your conclusions that the third option—that is, looking as close to end user as possible—would do the least damage. But, out of application level blocking and packet level blocking, which in your view would do more structural damage to the emerging information economy?

Dr McCrea—Certainly packet level blocking is coarser. If it were implemented, even though it would be implemented at relatively fewer places, it could do more structural damage. Application level blocking, against URLs and the like, would probably have to be replicated amongst the 600-odd ISPs so it would be more wasteful in terms of energy cycles. But it probably would not damage the infrastructure anywhere near as much.

Senator LUNDY—Thank you.

Senator TIERNEY—You mentioned, and it is related to the last set of questions, that it is most effective at the ISP level and that it should be voluntary—that is, they either opt in or opt out at the consumer level. I assume you said that because of the impact on e-commerce. Could you explain the nature of that? Is this because of quantity of traffic?

Dr McCrea—It is certainly our view that, if all Internet traffic were to be examined or filtered by ISPs, there would be some performance impact. If the filtering were by request only from the user, only a certain portion of the Internet traffic which goes through an ISP would be affected, so the degradation in performance of that particular ISP would not be anywhere near as great than if every request went through the same filtering process.

Senator TIERNEY—If the ISP filtering were compulsory just on home use, why would that have any effect on e-commerce?

Dr McCrea—It may be that I could not do my Internet banking. I do banking over the Net at the present moment from home. It may be that Java applications do not pass through the filter. It is certainly the case now that some applications do not operate through a proxy filter. Some of the people I spoke to within CSIRO had experienced problems in other circumstances with certain software running through proxy filters.

Senator TIERNEY—Why would banking be a problem at the home level?

Dr McCrea—Banking uses different protocols for the payment mechanism. The point is that, if you allow only certain protocols and block others, if it is configured incorrectly you may inadvertently block quite legitimate services.

Senator TIERNEY—Let us assume it is configured correctly. I would find it hard to believe, if we are trying to block illegal or offensive material, that anything would block what would come through a banking system. I just cannot understand why that would be the case.

Dr McCrea—I am not an expert in banking software but it may well be, and I hope it would be, the case that any blocking that were set up in a mandatory capacity would not affect an essential service like banking and other activities like that.

Senator TIERNEY—In relation to the BSP and ISP levels, do you think it would be technically feasible to do a more obvious screening at the BSP level of absolutely obvious sites? There is a whole lot of pornography sites, for example, on the Internet that would be easy to find. Obviously, some of them are more subtle and difficult to find but could you do a more general screening at the BSP level that cut out the obvious ones? Obviously, quite a lot would probably get through, which you could then screen at the ISP level.

Dr McCrea—I am not an expert with pornography. But I have had a look at some of the software which is available from mainly US companies to act as filters and at the black list that they maintain as an associated product, and some of these can go up to hundreds of thousands. I guess you are suggesting a two-phase filtered approach where possibly the more obvious ones—

Senator TIERNEY—Yes, take out the more obvious ones at the initial entry point.

Dr McCrea—I guess that is feasible. My reaction to that is that, if the people who hosted these more obvious sites became aware of that, they would rename them overnight. If you can filter at the ISP level, it can be done at a two-stage level quite acceptably.

Senator TIERNEY—You mentioned that the universities do not go through an ISP or are necessarily a BSP.

Dr McCrea—They are their own ISPs. They get Internet access and then they are their own ISPs.

Senator TIERNEY—So that means that, for students who are accessing computer screens in libraries, if we did bring in some sort of filtering device across the country, it would just bypass that into higher education institutions if universities get their own direct access?

Dr McCrea—Universities still receive their Internet feeds from the backbone service providers—it is Optus in the case of CSIRO and the universities—and that information could

be sourced within Australia or it could be sourced overseas. To the best of my knowledge, no university uses proxy filtering; I could be wrong.

Senator TIERNEY—Perhaps you might check that and provide us with some more information on what happens with universities in that regard.

Dr McCrea—I certainly can.

Senator TIERNEY—You mentioned that when material comes in if, instead of going through a black list, it went through more general descriptors, that would require greater time for processing and it would be 30 times slower. We are talking in milliseconds here. In terms of real-time use, how much would it slow things down if it were slowing things by that degree in milliseconds?

Dr McCrea—Whether it is milliseconds, seconds or days, the fact is that, with a factor of 20 or 30, when all the messages are aggregated it is still a significant penalty.

Senator TIERNEY—Do you not think, with the enormous growth in computing power that we have seen and which is likely to continue into the future, that will become less and less of a problem?

Dr McCrea—It is interesting that everyone talks about this enormous amount of computing power, but the currently fastest Pentium processors virtually run the same Microsoft software at the same speed. The software bloats itself to take advantage of the extra computing power so that the net result really is not much of an improvement at the application level. It does mean, however, that for specific activities—and I guess you are referring to filtering or blocking—the faster computers get the more quickly they can block.

Senator TIERNEY—Certainly at the BSP and the ISP level.

Dr McCrea—That is right. My view would be that the amount of material to be blocked would probably increase at least as fast as, if not more quickly than, the technological speed of computers.

Senator TIERNEY—That is an interesting projection. It would be difficult to say either way, wouldn't it?

Dr McCrea—It is a projection which I cannot prove; it is an intuition.

Senator TIERNEY—Sure; thank you.

CHAIR—Are you aware if there are many corporate sites that already have filters on their incoming material? You have just said that you are unaware of any universities that have done so, but I wonder whether you are aware of any corporate entities which have installed that software.

Dr McCrea—I have heard of corporate entities which have done that to stop their employees playing games and that kind of thing, but I do not know of any specific

organisations. Someone from the Internet industry could probably give you specific instances.

CHAIR—I wonder if the overhead transparencies that you presented could be reproduced so that we could incorporate them into the *Hansard*?

The documents read as follows—

CHAIR—Thank you. Senator Stott Despoja is unable to be with us today, but she has indicated that she may have some questions on notice. Could I just leave that with you?

Dr McCrea—Yes, certainly.

CHAIR—In view of the fact that we are already half an hour over the scheduled programming time, thanks to the fog at Canberra Airport, we will move on to the next witness. Thank you very much, Dr McCrea.

[10.17 a.m.]

NICHOLSON, Ms Jennefer, Acting Executive Director, Australian Library and Information Association

CHAIR—I now welcome Ms Jennefer Nicholson, Executive Director of the Australian Library and Information Association. The committee prefers all evidence to be given in public, but you may at any time request that an answer to a question be given in private and the committee will consider that. We have received your submission, which has been published by the committee. I invite you to make an opening statement and, at the conclusion, we will move to questions.

Ms Nicholson—The Australian Library and Information Association thanks the committee for this opportunity to provide evidence. As identified in our brief submission, the association is speaking on behalf of our members as providers of access to the Internet, not as an ISP.

The association supports policy designed to restrict access to illegal material on the Internet. Our concerns are how effectively this legislation may deal with such issues as the inability of the proposed regime to guarantee such information is removed from the Internet given the ability of content providers to relocate or disguise their content, the ability of those seeking out such material to get around blocking devices and that, in applying blocking and filtering systems, access to appropriate material may also be made inaccessible, thereby restricting the rights of users to access appropriate information.

Libraries around Australia are very active providers of access to the Internet, and they take a responsible approach towards the provision of access and the education of users. For example, libraries incorporate Internet use principles and guidelines into overall policies on access to library resources, they consult with communities in the development of these policies, they require acceptable use agreements from users, they require permission from a parent or guardian for use by a child, they educate users on how to use the Internet effectively and they evaluate resources and provide advice on these for users.

The LI sector appreciates the value of the Internet as an information resource but, as our statement on the use of online information in libraries states, the association recognises that many regulatory issues arise in relation to the use of online information. Regulatory challenges should not prevent libraries from protecting the freedom to read in the online environment, producing the best Internet experience for all users. I am happy to take questions.

CHAIR—In the evidence that your predecessor, Ms Walsh, gave to this committee in the previous parliament, she talked about the difficulties of ensuring that young people—children or teenagers—using libraries were not having access to material which was inappropriate. Can you tell me whether the libraries have made any changes to that area, what they see as being their duty of care in that area and, generally speaking, how libraries are dealing with that particular issue when young people come to use the library perhaps after school?

Ms Nicholson—As I just said, public libraries and school libraries will require that permission is given by a parent to use the Internet. There will be certain agreements within that for access to the information.

CHAIR—So you are saying that if a young person came into the library after school they would have to have a note from their parents?

Ms Nicholson—The parents will have to authorise the child's use and compliance with the requirements of the library, yes.

CHAIR—And how does the librarian, given that it could be a busy library after school, ensure that that is being met?

Ms Nicholson—Obviously every individual child cannot be supervised. Bear in mind that Internet access in libraries is usually very much in a public domain. There has not been, to our knowledge, any reporting of children accessing inappropriate material within the library as an issue or a problem.

Senator TIERNEY—If you do not check it, how would you know?

Ms Nicholson—Certainly there have been no complaints. The areas are fairly well supervised. Individuals are not supervised, but the library staff are usually fairly aware of what is going on on the screens—and this extends to any library and to use by adults. They are fairly aware of what is being accessed. In walking around they can usually see whether there is inappropriate use. They can judge often by the behaviour of the person, even without seeing the screen, whether they are getting onto material that they should not be getting access to. When anybody has been found accessing inappropriate information, they have had their rights to use the library withdrawn.

CHAIR—In your submission under 'Filtering technologies', you say:

The Association does not advocate the use of filtering technologies because they cannot provide guarantees that all objectionable online information can be blocked. Their use introduces a false sense of security for parents, guardians . . .

In the letter that you would expect a parent to write for the child to bring to the library, would you expect that the parent would be accepting that the librarian's duty of care is in some way absolved for the purpose of the child having access to the net?

Ms Nicholson—The duty of care would be that the parent is aware that, even if there was a filtering system applied, that filtering system cannot guarantee that the child would not get access to some information which may be inappropriate.

CHAIR—So if the child did choose to get access to this inappropriate material—and I am not necessarily talking about pornography here; I am talking about access to information on shoplifting or how to get on buses and not pay the fare, for example—then the library would not accept any sense of responsibility for the child having got that information

because the parent had agreed that it was possible that the child might get the information. Is that what you are saying?

Ms Nicholson—I am saying that parents always accept the responsibility for the access to any information that their child may get from the library, whether it is through the Internet or something they may read or whatever in a publication. Obviously, librarians are very concerned that children do not access inappropriate material in any format.

CHAIR—In the case of books it is possible to do that in a way that the child cannot reach the books until they are a particular age because of the height of the shelves and so on, but I am interested to pursue the way in which the library itself is going to manage the duty of care aspect.

Ms Nicholson—Through the various procedures that we have outlined there is certainly the agreement with the parents. It makes the parents very aware that information is accessible even if there is a filtering system. There is also the provision of education programs for the children. There is also the preparation of particular sites or guidance towards particular sites for children so that they are being directed in a positive way towards the use of information and in the development of their information literacy.

Senator MARK BISHOP—Ms Nicholson, you said you had members in 8,000 libraries around Australia. Following on from the chair's line of questioning, how many parents have complained to you or your organisation that their children are accessing inappropriate material in your libraries?

Ms Nicholson—I will just correct that—it is not 8,000 libraries; it is 8,000 members. That includes individuals and about 1,200 libraries or library networks.

Senator MARK BISHOP—A lot of libraries.

Ms Nicholson—It has not been raised as an issue within the library.

Senator MARK BISHOP—It has not been raised as an issue?

Ms Nicholson—In implementing their policies, the libraries consult widely. They consult with community committees to see what policies should be applied. But it has not been an issue within libraries.

Senator MARK BISHOP—So this is not a live issue within your professional life?

Ms Nicholson—No, it is not.

Senator TIERNEY—Ms Nicholson, when Ms Walsh appeared before us on 15 April last year she said:

Our association believes very much that you have to protect the interests of the children.

I have listened very carefully to what you have said this morning and I cannot see in any way, shape or form how you are protecting the interests of children when you have a total open slather approach to the Internet within your libraries. Could you tell me why that is not a fair assessment of what you have said this morning?

Ms Nicholson—We do not have a total open slather. I have said that we have very strong Internet use guidelines and policies, and libraries are very aware of children's use of the Internet and that it should be guided use.

Senator TIERNEY—It is absolutely terrific that you have these policies. How does that apply at the practical level when a child walks through the door of your library and accesses a screen on the Internet? What possible way, through end-use control, do you have to check that children are appropriately using the Internet in public libraries?

Ms Nicholson—As I have said, the staff will not necessarily be on a one-to-one supervision.

Senator TIERNEY—Absolutely.

Ms Nicholson—But they may be on a one-to-one basis if they are working with a child who has come and said that they want something in particular. Some libraries actually dedicate terminals for the use of staff when they are working with an individual on a one-to-one basis to ensure that they are getting the material that they want—not to prevent them from getting inappropriate material but to assist them in getting information that is appropriate.

Senator TIERNEY—But children can come into the library without asking for any assistance of staff—

Ms Nicholson—Yes, they can.

Senator TIERNEY—and just go up to a screen and start using it, could they not?

Ms Nicholson—No, they cannot. Usually they have to book that terminal.

Senator TIERNEY—So they book it and then they go and use the screen.

Ms Nicholson—Yes—and there is somebody usually monitoring the use of those particular machines.

Senator TIERNEY—In what way do they monitor them?

Ms Nicholson—They would know who is using the particular machine at any particular time. As I have said, they can walk past and very clearly see whether a child is getting into an inappropriate area. The child might be inadvertently getting into inappropriate material, and the staff can assist that child to get the material that they do actually want to retrieve.

Senator TIERNEY—I have been on the Council of the National Library for seven years. They keep telling me how understaffed they are, and I believe them—I have looked at the staffing levels. Do you think that staff, with all their other duties, have time to do this—that this is an effective way of controlling inappropriate use?

Ms Nicholson—It is one of the ways in which it is done, and certainly it is part of the responsibilities of a professional within that organisation.

Senator TIERNEY—If a child is accessing pornography and someone walks past, it would be obvious what they are doing, but that is not the only illegal activity on the Internet. There are things like how to make bombs from homemade recipes, for example, which would be quite technical, and unless you actually came up and read the screen you would not know what they were doing. Even though you have said a lot of nice things about policy, surely the reality is that it is pretty much open slather, is it not?

Ms Nicholson—I wouldn't agree with you, Senator.

Senator TIERNEY—One thing that we have discovered from this inquiry and many others is that the children are often well ahead of the parents in terms of technology. You mentioned agreement from parents. What if a child says, 'Mum, I'm going to the library to do some work on my history assignment' and the child does something else? Where is there any permission or agreement with parents?

Ms Nicholson—If the child then applied to book a terminal, that permission would be required before the child could get access to the terminal.

Senator TIERNEY—So the parent has to sign something that says they are using the terminal?

Ms Nicholson—That they may use Internet access, yes.

Senator TIERNEY—But what if Johnny says, 'I want to research World War I history'? It doesn't appear by topic, does it?

Ms Nicholson—No, it doesn't.

Senator TIERNEY—Exactly. So they can get access to anything.

Senator MARK BISHOP—My daughters, aged 11 and eight, attend a school which has a class size of 35 or 40 girls. Each of their schools has a computer library and each of the children has one or two teachers per class. We as parents had to sign a document, firstly, allowing our children to access the Internet through the computer library at their school and, secondly, undertaking to explain to our children the content of that contract—what they could access and what they could not. In each of those classes there are one or two teachers who supervise the children's access to the computer library in their school. How is that process qualitatively different, if at all, from what occurs in public libraries? My children also use the three or four libraries close to our home. They had to go through an identical process in accessing information on the Internet through the public libraries. It has been my

observation when my children visit both the Subiaco City Council library and the Nedlands City Council library that a number of library attendants and voluntary workers walk around the library, keep an eye on all the children using the screens in public access areas and gently supervise their activities. Is that your experience of how the library access system for Internet and children operates?

Ms Nicholson—Yes, that would certainly be the role that professional librarians take within a library. There is a commitment towards—

Senator MARK BISHOP—A commitment to children?

Ms Nicholson—Towards developing the information skills of children and providing appropriate access to information, yes.

Senator MARK BISHOP—So there is a degree of supervision and an eye is kept on the activities of children?

Ms Nicholson—Very much so, in the education of children, in accessing sites and in developing sites that are of great benefit to children—and steering children towards the sites that will provide them with good information experiences.

Senator MARK BISHOP—The issues raised by Senator Tierney are obviously of concern. How many of those complaints have been brought to your attention by members of your organisation—the types of issues that Senator Tierney was referring to?

Ms Nicholson—We are not aware of that being an issue within libraries.

Senator MARK BISHOP—You are not aware of that being an issue within libraries?

Ms Nicholson—Of there being problems with children accessing illegal material or inappropriate material, no.

Senator TIERNEY—They are not aware of what is going on?

Senator MARK BISHOP—They would know, Senator, because parents would complain, children would discuss it with other children, and librarians would observe it. People are not fools: they can see what is going on. You have raised an issue and the executive director of the association is advising you that her organisation, with members in 1,200 libraries around Australia, has not had a complaint.

Senator TIERNEY—I find it very disappointing, when we are setting up systems in this country where at the home access level there will be filtering devices to protect children and when schools, particularly in Victoria, have applied this system of filtering devices very effectively to protect children, that, according to your evidence today—which is absolutely no different from Ms Walsh's evidence one year ago—the public libraries are leaving open access for children. It is blocked at home and it is blocked at school. They say, 'Oh, we will just go down to the public library.' It is open slather, isn't it, because the reality is that, from the procedures you have described, there is no effective supervision.

Ms Nicholson—The reality, Senator, is that those policies that have been implemented in the public libraries have been done by the local authority after consultation with the community.

Senator TIERNEY—That is a very good bureaucratic answer, but it does not answer what happens on the floor of the library.

Ms Nicholson—One public library in Queensland has elected to implement filtering technology.

Senator TIERNEY—I would suggest that the other libraries should follow its example.

CHAIR—Just to contextualise the comments that arose from the questions by Senator Bishop, has your association ever polled libraries? Has it ever asked libraries whether this is an issue? When you say that it has never been drawn to your attention, is this because you have never asked?

Ms Nicholson—It is not because we have never asked. Obviously, Internet access within public libraries and schools is a matter that is discussed at great length within our sector. These issues are not issues which have come up in those discussions.

CHAIR—Have you ever asked? Have you ever sent out a questionnaire?

Ms Nicholson—We haven't sent out a questionnaire to all libraries, but certainly the issue has arisen and libraries have put forward the way that they deal with this—obviously through the use of consultation with community, et cetera.

CHAIR—Can you expand a little on how they are involved in consultation with the community?

Ms Nicholson—Most public libraries, and even school libraries, would have an advisory group that is constituted from members of the community. That is where these sorts of policies are developed. Also, a lot of councils have considered the matter of applying filters and they have usually concluded that they see it as a form of censorship and have elected not to do it.

CHAIR—In a normal library, would it be the case that the keyboards and the screens are within the view of the librarian at the desk where they normally sit? How easy is it for a librarian to be able to monitor what is happening on the access screens?

Ms Nicholson—You will usually find that the keyboards and the screens would be within view of the main desk area where the staff are.

Senator TIERNEY—Just one follow-up on your last comment: you said you saw it as a form of censorship. Across all mediums in Australia—across television, newspapers, magazines and videos—there are very strict codes of practice relating to what can be seen or cannot be seen. We have full censorship in this country; we always have. Are you saying that libraries should be totally free from that?

Ms Nicholson—No. What I was saying was that the local government authority was viewing the filtering system as a form of censoring information.

Senator TIERNEY—So why do they have a problem with that, seeing we do it with everything else?

Ms Nicholson—That is why they have chosen not to implement them on their Internet access in libraries.

Senator TIERNEY—Even though schools do?

CHAIR—Even though the local picture theatre does within the same local government constituency?

Senator TIERNEY—It is just amazing.

CHAIR—Senator Harradine, did you wish to ask some further questions?

Senator HARRADINE—No, we have run over time. Would you take this on notice, please, Ms Nicholson, and provide us with details of decisions and resolutions taken by these local authorities and councils which had voted against the filtering processes within the library because it would be censorship?

CHAIR—Thank you very much, Ms Nicholson, for coming today.

[10.40 a.m.]

BRITTON, Mr Charles Crawford, Senior Policy Officer, IT/Communications, Australian Consumers Association

BUN, Ms Mara, Manager, Policy and Public Affairs, Australian Consumers Association

CHAIR—Good morning. I welcome the representatives from the Australian Consumers Association: Ms Mara Bun, the Manager of Policy and Public Affairs, and Mr Charles Britton, the Senior Policy Officer for IT and Communications. The committee prefers all your evidence this morning to be given in public but if at any time you wish to answer a question in private you may ask and the committee will consider that request. We have received your submission, which the committee has authorised to be published. I will now invite you to make an opening statement before we move to questions.

Ms Bun—Thank you very much. I appreciate the fact that most committees like very short openings. We were only able to put in a few pages of a submission so we do have a few comments to add to that for the record. So I ask for your patience. We at the Australian Consumers Association have been defending the rights and interests of consumer for 40 years, but only five years ago became engaged in the information economy at the level of kids and learning and the capacity to evaluate products and services.

We now have what we believe to be the country's biggest independent computer testing laboratory. We have engineers and experts who focus only on computers, IT and the Internet. A few years ago we began publishing something called *Computer Choice*, which is our first new spin-off from *Choice*. It is targeted at home computing, at families primarily that want to learn how to engage with computer technology. Come July of this year we will begin to offer very different services off our website, with a new product called 'Choice On-line'. So we are interested in many aspects.

I wanted to give a sense of why, although we hold grave concerns from the point of view of protecting particularly young children from abhorrent practices in relation to what is illegal, and in some cases legal, pornography, we do have concerns about this proposal as a solution to that. In a nut, our concern is that in partially doing something there is a risk that we believe could not be fully addressed without enormous social and economic cost. The partial addressing of that fairly noble attempt, you might say, will be borne by consumers, and that is through the performance of the Internet and all that it does have to offer in a positive sense. Instead we prefer, in keeping with our history of empowering consumers and leading reforms for their safety and protection, to give tools to individuals and families, certainly to schools and even libraries, to enable them to make proper choices.

In that context the leader of our online effort was Anne Burston, who wishes she could be here but is with the EU on a big project on consumer protection worldwide. She has been writing a series of books. This one is called *Web Sites for Primary Kids*. It is written by one of our journalists. It is published by a commercial publisher, a very mainstream one. In the very beginning there is a note to parents which I thought might be helpful in terms of understanding our own perspective. It says:

None of the sites mentioned in this book contain inappropriate material, but they can indirectly link to sites that do. You should talk to your kids about sensible Internet access and agree with them on a use plan. Explain that anything which upsets them should be talked about, and make sure they do not give out their real life address over the Internet.

If you are new to the Internet yourself, try surfing with your child on some of these sites. It can be a learning experience for both of you. If you are really worried or you know that your child is unusually inquisitive and likely to head off into spots that you do not necessarily want them to, you can investment a series of child-safe filtering products such as those listed.

I do not need to list them for you—you have them yourselves. The kinds of things that kids are learning about right around the world are from how to research dolphins to the Tower of London kids tour, to encyclopaedias online and how to draft them, to girl power with useful information on stuff like health, eating, self-confidence and saying no to drugs. It says, ‘You can also read interesting and funny stories about famous women in science, medicine and sports.’ These are the tools that our young kids are being empowered by.

Sadly, after this book was printed and stocked at the bookseller, we discovered that one of the sites mentioned in this book had been purchased by a pornography supplier and the commercial publisher had to pull 10,000 copies. This is not the first time that this has happened. It is a lesson in how quickly things move through this medium, regardless of your goodwill and intent to control.

There is nothing quite like seeing a group of kids testing, say, educational software through the *Computer Choice* testing labs—it is absolutely amazing. Senator Tierney is quite right: their parents and grandparents often know way less. When they come to us at the age of five, they can actually navigate these systems and we learn from them about what does and does not work. The thing that we learned which was so impressive—we felt kind of silly—was when we put together a marketing plan for the *Computer Choice* which we thought would address the 12- to 20-year-old, young learning market. In fact, the single biggest segment who buy this magazine are men over the age of 55, and the reason is to connect with their grandkids and their kids, and they tell us that. They say they want to look at it as if it is a groovy magazine for the young, but they want to learn how to talk to their children when they come home from school because they understand that it is a very different world in which we live.

The very clinical side that assesses how ISPs perform, how information is transmitted over the web and the cost and performance of various providers understands that it is not just goodwill, it is not just creative engagement; in fact, it is cost. This government has taken very seriously the issue of bandwidth and pricing. I was on the Information Policy Advisory Council back in 1996. That council identified bandwidth and pricing as a crucial issue. Through the National Office for the Information Economy, last year again the question arose of how we will take off in terms of the information society and economy if we have this barrier on our cost. Most recently through the Australian Information Policy Advisory Council to the minister, the question of bandwidth is right now subject to an inquiry. So to us it is difficult.

Our experts, CSIRO and the consumer groups in other countries that we have addressed about this proposal all raise quite considerable concerns about the cost of taking the partial

step and are absolutely incredulous that it is possible with an open, democratic society online to take the full step and move towards those other models which very much are an option for governments along the lines of what Singapore and China attempt. The question is how to move forward without compromising this enormous bandwidth problem.

I want to talk briefly about self-regulation and global regulation. Concerning self-regulation, this industry is far from perfect. This is a classic industry where coverage has not been achieved by the industry association. When we went to count, there were something like 600 Internet service providers, many of whom are so tiny that it is very difficult to identify them, much less get them to comply with a sensible set of consumer rights. Nonetheless, this industry has formulated an industry association. They have opened a dialogue and included us and a number of other community and consumer groups in that dialogue. They were among the first to support moving towards a privacy regime at a national level. That took a lot of maturity given their industry. They have involved us in developing their code. They have invited us to participate in the governance of their code and so we have some confidence that, although it is very difficult, it is also possible to move forward very constructively.

In moving from an enthusiast environment on the Internet into one that has broad acceptance, we have to acknowledge that the United States has an absolutely fundamental role to play in helping to govern this broad online world. Over the past year, Australia has played an excellent role at the OECD level. A delegation which includes officials from Treasury and the ACCC has been pushing for a global code of consumer protection to deal with things like this: if you do not know who you are buying something from and you want to return it, what do you do? We are not big businesses having contracts. If e-commerce is going to take off, we need a set of rights. It is only to acknowledge that good effort and to encourage the kinds of badging rules and enforcement mechanisms to push into that more global level over the medium term. It is fair to say, at least in so far as we canvassed other consumer groups and other OECD countries, Australia so far is the only country where the Internet community has said, 'We will agree to take off content. We will agree at that level of the local marketplace to move to broaden self-regulation.'

If the United States did that, we would have a shot at doing what you are attempting to do. It is very difficult to think about it in the context of a global set of very fast moving transactions in our tiny corner. I am reminded about the US Supreme Court, but I am not sure exactly why. I am sure that will come forward in due course.

The proposal has, in the Australian Broadcasting Authority, a set of powers which can seem to be restrained because the legislation also calls for quite extensive consultation with the industry before moving forward. This has, to our association, been given forward as comfort in relation to why perhaps this is a good halfway step.

Recently, we have had two very clear examples of how consultation, when promised, can go wrong. One of those is in relation to the digital television debate where a whole series of consultative mechanisms have been put in place and we look, at this stage, as though we will have a system which is, from our point of view, not very close to consumer desires. That is because standards are being monopolised by a very powerful set of interests. So consultation is not enough. A good example is the National Food Authority where the act calls for the

most extensive democratic set of consultations and the outcomes consistently are against the consumer interest. We really do not take an enormous amount of comfort from that.

Finally, I want to draw attention to the very subtle but important link between privacy, on the one hand, and some sense of standards that are fair and proper and being maintained, on the other. I was looking at today's *Australian Financial Review* and one headline reads, 'SingNet apology for snooping.' This is the major Singapore Internet service provider saying, 'Sorry, our regulator'—like the ABA will have—'has the power to allow us to do all kinds of things in the public interest.' They defined it here in a way that came a bit close—and, apparently, there is quite an uproar because it triggered fears in this tightly ruled island that even cyberspace is not free from state control.

To conclude, I received an Amnesty International appeal leaflet at home on the weekend and, to me, it was just terrifying—not that this is directly related and I am not saying that it is. The leaflet, which should be appearing in your postboxes, says that human rights are wrongs and it talks about email in China. It says that, in China, the World Wide Web is not so wide and that people are going to gaol by trying to contact democratic forces in the US and other more open countries. It is a reminder that it is not only for horrible things that are done to children that societies choose to have more of a heavy hand, it is also for political purposes. I think that is a very difficult signal.

Senator HARRADINE—So Ms Bun knows, a number of us are members of Amnesty International and are involved in these matters.

Ms Bun—I am sure you would be.

CHAIR—Mr Britton, did you have any comments you wish to make?

Mr Britton—I come to the ACA with a background in information technology management, but the observation I would like to start off from here is more from the perspective of parental management. I am very concerned that my children are protected from influences such those being discussed here—pornography and whatnot. I am also very concerned that they have job and education opportunities into the future, and I see the Internet being a critical enabler of their education and employment into the future.

It has been my observation, from watching them play computer games, that one of the things that has unexpectedly occurred is that they have been very well educated in risk. This seems an odd thing to say, but they can take risk in the computer games in a way that, in real life, they probably would not until much later in their lives. I have noticed that they have literally learnt to look before they leap, by looking down at the screen. They have learnt to exercise caution in that virtual domain from virtually the age of two.

The other thing I have with my children is a good dialogue. Talking to them is extremely important. My son came to me last night with a CD and pointed out to me, 'I'm sorry, but I can't play this.' I said, 'Why not?', thinking that it was a technical problem, and he said, 'It's got MA 15+ written on it. I can't use it.' So he has obviously absorbed those lessons. Things like badging, that Mara was talking about, and letting people know are very important. The trust between parent and child and the empowerment of the parent with tools

like the filtering software on the PC, if needed, are important. But dialogue between the parent and child is, I think, one of the critical issues that needs to be fostered.

CHAIR—Thank you for those comments. I am inspired to ask whether your children have access to the local library. I think you were both here for the previous evidence. Given that you are obviously very careful about what your children have access to on the home computer, how do you feel, as representatives of the Consumer Association, where a large number of consumers of local libraries are small, about the decision taken by the libraries association to not put any filters on net access in libraries?

Ms Bun—I have seen libraries in the Hunter Valley, where my in-laws are, and in Balmain, which is inner city, the state library, and all I can say is that it would be a very awkward thing indeed, given where the computers are, who is using them and the traffic around them, to have anything on the screen remotely inappropriate. Usually, there are four people all in line—they are all using it at once—and there are two people lined up behind. The Internet service time available at public libraries is very precious so it would not surprise me if it were a relatively effective self-patrolling thing.

CHAIR—I guess you are talking about visual material, but the question I asked Ms Nicholson related to things like shoplifting and how to catch buses without paying your fare—I mean, text. I accept Ms Nicholson's point that the screens are very close to where the librarian generally spends most of her day and I accept your comment about visual material, but I still raise the point about text.

Ms Bun—I think we like to gossip as a nation. I think it would be very unusual if sinister dealings were happening in libraries before our very eyes and we were not hearing about it somehow. I may be wrong. Perhaps what we need to do is a massive survey to find out if this kind of—

CHAIR—I really asked this question of Mr Britton. It is a matter of principle in the sense that I can see that you have spent a lot of time with your children explaining to them the difficulties of inappropriate access to the net. I still raise the question concerning a very large group of consumers, albeit young consumers, going to the local library, which is part of a local government community: how appropriate do you think it is for the libraries association as a national body to take a decision to apply absolutely no filtering mechanism on library access at all?

Senator LUNDY—Madam Chair, can I raise an objection or a point of order perhaps to your line of questioning. I do not think it is fair for the witnesses that you ask their opinion on the practices of another organisation by virtue of the fact that they happened to be witnesses before these people.

CHAIR—Thank you for your point, Senator Lundy.

Senator TIERNEY—They are representing consumers, I thought.

CHAIR—Just a moment, Senator Tierney. We have been asking a number of witnesses for their opinions relating to other material we have had and we have asked a number of

people for their reactions to Dr McCrae's evidence. If Mr Britton does not wish to answer my question, I am sure he will make that decision for himself.

Mr Britton—Based on the experience with my own children, my feeling is that my ability to talk with them and know what they are doing is my empowerment with them. I am not concerned that they would be there doing that. That is basically my attitude, as far as my own children are concerned.

Senator HARRADINE—On the question of protection of consumers—you have read the legislation—do you think the ABA is the appropriate body or do you think that there should be a specific online content regulator that has a direct relationship with Internet content and service providers, perhaps for a class licensing system? You mentioned filtering. The other night we had the director of the CLC from Sydney and we were discussing this point. The majority of ISPs appear to me to be in it for the money and do not really have much regard for the end user. In this particular regard, you mentioned in your submission the importance of having filters and the like. Don't you think there should be some sort of obligation on the ISPs to provide to the end user the empowerment, if you like—the tools of the trade—and if so, how?

Ms Bun—This is an important area of questioning and it is a very large question. I will see if I can start at the top and work down to the bottom and hope I will satisfy you a bit. On the question of regulatory structure, I might start by reaffirming our concerns that any regulator be given the power to have the kind of filtering worldwide that we understand, through CSIRO's analysis and other technical expertise, would in fact have very severe consequences on the Australian emergence of our information society—forget about our economy. Having said that and put it aside, in relation to—

Senator HARRADINE—But we will not put it aside, will we, until we test it out?

Ms Bun—You are quite right. That is the core issue. Our feeling is that testing it out will do enormous detriment and will not succeed. That is based on technical advice. It will not succeed without such a high cost that we think is very serious in relation to the development of the Internet and its positive consequences for Australians.

Senator HARRADINE—What, testing the filters at the end user?

Ms Bun—Filters at the end user side, on the other hand, we think—because of the testimony we have just heard as well—do have the potential to empower people, at the level not only of households but of schools, school systems and what not, to really have control in relation to other important dialogues of the kind that Charles is raising. So, yes, at the level of end user filters it is absolutely crucial. In fact our proposal actually says that the government should mandate that every modem that is sold includes information about filtering at the household level and the possible benefits associated with that.

But, moving to this question of the Australian Broadcasting Authority and whether it is the right place, if we are to move from that sort of empowering sense of filtering to that top down sense of filtering, I think there are some very legitimate questions in relation to the Broadcasting Authority. They have to do, Senator, as you well know, with this ongoing

discussion about convergence and the fact that we will be able to get the Internet on our mobile phones. We already can, and kids are going to be able to do that all over the place. Data casting on television sets will introduce the Internet and data into people's homes. Already so many things are changing and yet our regulators are quite focused on their traditional areas. So I think it is an important question mark and—

Senator HARRADINE—So you are saying that you could have licensing conditions for Internet service providers which require those providers to do certain things, one of which, for example, would be the provision of the filtering software that is required?

Mr Britton—In some respects the Internet is an ideal tool for delivering that filtering software to people because it is an ideal distribution mechanism for software. So in that sense it would be a valid thing to have as a part of industry code—that they make available to people that sort of software.

Senator MARK BISHOP—Sorry, Mr Britton. I just missed that. What point were you making there?

Mr Britton—I was saying I think it would be a valid thing for ISPs to make available filtering software—or information about filtering software because the problem we have got is that it is a commercial product so saying to them, 'You must make if available,' would have—

Ms Bun—But the crucial difference would be, in this kind of environment, having access to these kinds of tools as well as an understanding of what they could deliver and then individuals making choices. That is a very different approach to the current legislation.

Senator HARRADINE—But you agree that society does have the right to decide whether certain illegal or highly offensive material ought or ought not to at any event be carried by whatever medium, whether it be Internet or narrowcasting, for example?

Ms Bun—Narrowcasting is a good example.

Senator HARRADINE—Narrowcasting is a good example, isn't it?

Ms Bun—It is. Another example is in the print media. I have to say that I find it completely offensive when you go into the petrol station to pay for your petrol that you encounter, at children's height, all those horrible magazines. It is very difficult to control. But I agree, yes, it is possible in a tight narrowcasting environment to deliver such a thing.

Senator HARRADINE—You could make it a licence condition on ISPs, for example, that such material not be provided.

Ms Bun—Senator Harradine, I guess we just would disagree on the nature of the Internet. In a sense it is easy to say that and to put that licensing condition on, but to actually enforce that we think—

Senator HARRADINE—Yes, but we discussed here this morning Moore's law, that the power doubles every 12 months. I think the committee and the government are trying to grapple with what is coming down the track. Whilst it is very difficult to achieve that objective that we are discussing, nevertheless the technology may well be there. It may be emerging or it may well be there. We are going to hear from a group this afternoon, as an example.

Ms Bun—Because we are a consumer organisation, we have dozens and dozens of technology providers constantly rocking up to our doorstep promising that they have the solution to the most interesting things. The reason we do not believe them in this particular case is not just that we have independent scientific experts here and elsewhere but that we think they have a commercial interest in saying that.

Senator HARRADINE—Yes, but those technical experts we had heard this morning are not equipped to do the research into blocking technologies, which surprised me. It also surprised me from a public policy point of view that they do not engage in that, but that is another view.

Ms Bun—In terms of policy development, if this committee were to conclude that there need to be public dollars spent in researching the efficacy of the technological solution, that I think would be a useful step forward. What I have grave concerns about is the experiment which is being proposed and what we understand to be quite significant costs to ordinary users. Really the vast number of people and the vast amount of time on the Internet is doing stuff like in this magazine. It is really wonderfully empowering, educating, commercial stuff. It is very rich. And we do not want at all for our nation in a sense to be slowed down as a result of these experiments, which we think are a bit fraught.

Senator CALVERT—I have just one question. I note your recommendations here on self-regulation, and particularly the part that I like about retailers providing information packages and the like, educational material, to inform me as a parent or as a grandparent who is going to buy a PC with all the appropriate stuff how not to access undesirable material. You gave us the example this morning of a particular publication that you were showing. You told us that it had to be withdrawn because one particular site that was recommended in that book had been bought by a pornography operator. Are there any regulations to stop that? If there are not, what is the point of your educational material? Anybody could buy a popular site—Jack and Jill, for instance—and pop in something that I do not want my kids to see or someone else's kids to see. Surely there should be some regulation at that very basic level to stop that sort of thing happening.

Mr Britton—One of the key things obviously is that we are talking about a global phenomenon. The sites may well have been hosted overseas—

Ms Bun—It is a US site.

Mr Britton—We are talking about a global phenomenon, so the regulation to stop that happening would be in a foreign jurisdiction. In fact, I guess that illustrates the complexity of attempting to regulate out into the world. That is not to belittle the efforts of anybody trying to grapple with the problem. Around the entire world governments are trying to deal

with it, and that is why at the other end of our recommendations we are talking about international cooperation. There is an enormous amount of goodwill in researching this. The OECD is talking about it, Interpol is talking about it and in world forums people are addressing it. That is where you would be seeking to find the regulation or the control of that sort of thing, but doing it from Australia out—

Senator CALVERT—There may be some technology available now or in the future that at the very least—do we have to put up with this beeping all the time, Chair? I am trying to pursue a line of questioning and I keep getting this going off in my ear.

CHAIR—Senator Lundy, is it necessary for your computer to continue with that noise?

Senator LUNDY—I can actually turn it down if I get past a certain point.

CHAIR—I am sure the witness and your colleagues would find that helpful.

Senator CALVERT—At the very least there may be some technology available—you may be able to tell me, or someone else may be able to later on in the day—where a blocking mechanism or filtering mechanism would take note of people who changed their sites like that. You start out as an honest broker and buy these machines and you look through your association's educational material and say, 'That is the sort of stuff we are going to watch.' You educate your children to do that and then all of a sudden something else pops up on there that should not be there. Surely that is almost, I don't know, unfair trading or something.

Ms Bun—We were very disappointed.

Senator CALVERT—I bet you were if you put that investment into a book and then find that you have to withdraw it. That happens in one case. Obviously there must be money in flooding the Internet with undesirable material or people would not be doing it. It is obviously very popular. I just thought that, if there was technology available, at the very least Australia should be able to regulate or have some sort of mechanism for stopping that happening, if possible.

Ms Bun—There is technology available, and the site that was purchased would not have made it through any of the filters that we recommend in the book. So any parent who actually went through the process of getting a filter would not have had that problem. The difficulty is that this is a few months ago and this is about the first week of experience of 10 users on the Internet. Believe me, there are huge numbers of complications that you go through. How you deal with your children is one of them. So it is a broad education effort that I think the government and all of us others need to be engaged in. But you are quite right: unless we had those filtering tools, we would be much more concerned than we are now. We are saying, 'Give those tools to parents and schools and whatnot and then let people have the positive experiences that they deserve.'

Senator CALVERT—Does your organisation highlight providers who do that sort of thing, who buy popular sites and change them over to something else?

Ms Bun—This is the first experience we have had with that, and it is not our book. We are in the process right now of doing an evaluation study of the different kinds of closed ISP environments, where you sign up very much to a child friendly environment, to see which ones have more diversity at a lower cost and so forth.

Senator CALVERT—It seems to me that truth in advertising goes out the window, doesn't it?

CHAIR—Senator Calvert, Ms Bun and Mr Britton, I need to ask for your patience here. The next witness is only able to join us by telephone from Sydney from 11.15 a.m. to 11.45 a.m. You do not even need to move from where you are sitting, but I wonder if you would mind if we went to that teleconference link now and then came back to complete our questions to you. Thank you for your cooperation.

[11.17 a.m.]

MARZBANI, Mr Ramin, Principal, www.consult Pty Ltd

CHAIR—I would like to welcome and particularly thank Mr Marzbani for making himself available to give his evidence to this committee at short notice, since I understand that he has only recently returned from overseas. The committee prefers that all evidence be given in public, but you may at any time request that your evidence, part of your evidence or an answer to a specific question be given in camera and the committee will consider any such request. I understand that you have not yet had the opportunity to prepare a submission; instead, I invite you to make an opening statement to the committee and we will move to questions. Is it correct that you need to complete your evidence at 11.45 a.m.?

Mr Marzbani—That would be preferable, but I would be more than happy to stay on if the committee had any additional questions for me.

CHAIR—Thank you very much. Would you now make your opening statement, please.

Mr Marzbani—Good morning. I offer my apologies for not being present in person. I have actually sent in my submission by email and I am going to read it to you. If you check it.sen@aph.gov.au, I am sure you will find a copy there.

Basically there are four important arguments against what we see as the government's proposal being put forward against us. They are the economic argument, the legal argument, the existing solutions argument and the technology argument. The economic argument basically says that, in the online world, regulating content is ultimately equivalent to regulating commerce. Given that Australia's primary Internet trading partner in the world is the United States, efficient online trading with the United States would need to have compatible and consistent legal structures in place in Australia.

Since the nascent Internet e-commerce market could play a very important place in the future economy of Australia, even the slightest obstacle to Australia's participation in the global Internet e-commerce markets at this critical point in time should be avoided at all costs. Imposing costs on Internet service providers in the form of additional regulatory compliance, even if it only involves taking orders and messages from the ABA or increased capital expenditure for equipment to block web sites by filtering them, is unlikely to encourage a high level of growth amongst small ISPs, especially those in regional Australia. Australia has developed a potentially sustainable source of competitive advantage in the Internet and Internet related markets precisely because of the lack of government intervention and government regulation in this arena.

Finally on the economic argument, slowing down the Internet by having the flow points, which are the routers and switches, continuously checking for restricted web sites or other content would penalise the entire Internet e-commerce value chain in and out of Australia for very little return. Content exports from Australia are also likely to be impacted by this legislation, forcing creators and distributors underground or overseas. That is the economic argument.

The legal argument basically says that it is not clear that illegal material, such as child pornography, is any less illegal if it is on the Internet. We have seen governments successfully prosecute offenders for having possession of illegal pornography on their computers, and it appears that existing legislation should be more than sufficient to cover illegal activities on the Internet as well as off it. As far as we know, there are no illegal activities that become less illegal on the Internet. However, there is a broad range of legal pornography that is likely to be blocked by the proposed legislation, and this raises an issue of consistency. Australia Post does not currently check the content of mail order articles, verify the age of brown paper package recipients or restrict mail coming from or going to the anonymous distributors of legal or illegal pornography. The laws currently provide ample remedy for anyone breaking them. There is no reason to expect the equivalent of Australia Post in the Internet world, the ISPs, to do the same—although I must say that I am simplifying the issue very much. The existence and operation of the legal porn industry in Canberra, and the interstate trade that they are undertaking, really does raise the issue of consistency again.

Attempts to classify the Internet as a broadcast medium—or even as a narrowcast medium like pay TV—miss the fundamental legal dilemma that the Internet consists of a whole range of communication options, from one-on-one communications—which are similar to the telephone—to subscription services, which are similar to the post, and community services and a broad range of other applications that cannot be generalised under the heading of the web—such as meetings in community centres, which are equivalent to some of the community and affinity web sites that are out there. As the Internet evolves, it is likely to deliver more complex and more convergent communications models that we have not identified yet and we do not even know how. Therefore it is going to be very difficult to legislate around these. That is the legal argument.

The existing solutions argument, as you are probably aware, says that censorship by governments and the setting up of new standards committees is even more unnecessary, given the fact that we already have commercial services and software that would permit parents to regulate the online activities of their children. Whilst there is really no substitute for parental involvement with children, we can expect an increasing number of services to become available in response to any demands by parents for greater control of the access of their children. If they demand it, people will create the services and products around them. This is one thing we have seen continually happening around the Internet. Today there are problems associated with censorship or blocking software. It has been proved over and over again that innocent and educational sites as well as random sites become the casualties of blocking software, either by accident or deliberately. The dangers associated with black lists are quite significant and well documented.

The technology argument is a little more complex. It basically says that the technologies associated with the Internet continue to change rapidly—far too rapidly for any legislation to keep up with and remain effective. Just because governments can impose rules requiring something to be done, that does not really guarantee they are going to achieve that. A high level of censorship online being imposed on the offline world does not really achieve too many objectives associated with censorship in general and the protection of minors. It is technically impossible to totally block out pornography but it is much easier to block out educational, artistic or politically inconvenient content.

It does not make a lot of sense to waste energy continually debating this issue. If the purpose of the proposed legislation is to make it more difficult for children and minors to gain access to pornography, then it will fail, because there are already dozens of what we would call countermeasures and services available to combat the restriction of access to web sites. Most of them are so simple that they require no specialist training or understanding to use. An anonymiser is just one of these services. Any government that then wants to pursue these countermeasures in order to enforce the initial or preliminary sites that they want to block is likely to embark on a journey of ever increasing cost, complexity and what we believe will be futility.

Whilst the Australian Constitution does not really provide for freedom of speech, it is something that most Australians assume they have. The current legislation not only moves to further limit adults' rights but also moves to provide an unsavoury beat-up on the Internet e-commerce superhighway.

As a concerned parent and as an informed technology researcher my recommendation to the committee would be to set up a complaints hotline that would deal with any and all complaints that are made online or over the telephone through something like a voice recorded system that would actually log any complaints it received. The process would not reply or take any action whatsoever other than to advise people that if they think content is illegal they should go ahead and report it to the police—who would probably need some training and support in their own right, which should be happening anyway. But the hotline would actually analyse the complaints, the complaint types and the number of unique individuals complaining and would report back to the Senate committee with results after a period of, say, three to six months. In the interim, the government could probably issue a challenge to the various stakeholders and encourage them to develop educational material for online and offline distribution to support parents and other parties in better managing and monitoring Internet access by minors. The results of these actions could then also be reported back to the Senate. That is the completion of my written submission to the Senate committee.

CHAIR—Thank you very much, Mr Marzbani. Before we go to questions from the committee, I ask one question to clarify something that you told us back in April last year when you last appeared before this committee when we were discussing voluntary codes of practice. We have taken evidence already from Mr Coroneos and the Australian Internet Association in relation to codes of practice, but you gave an interesting answer when you were asked about codes of practice in response to a question from Senator Harradine who asked you:

So you are not likely to get a voluntary code of practice from the Internet industry?

Your answer was no. Do you still have that view, and can you explain some of the detail of why you said no?

Mr Marzbani—I do not remember the exact details of the question but there are three parts to that answer. The first one says that there is no such thing as an Internet industry; there is such a thing as an Internet service provider industry. I understand that the Internet Industry Association, which represents Internet service providers as well as other parties, is

able to come up with a voluntary code of conduct. Having said that, I point out that the Internet industry is such that, for example, people who would create online content are small or large players as a whole and do not currently belong to the IIA. Whilst there is nothing stopping them belonging to the IIA, most of them would not consider membership of larger organisations to really be part of their business models—although, again, if the Senate pushes everyone, they may go and have another look at that and the IIA could make it easier and cheaper for smaller players to become members of what is going on. That would be from an Internet association point of view.

If we talked about success of voluntary codes of conduct, I am sure that there are codes of conduct that will appear from different organisations, web hosting companies and publishers of various kinds that would address some of the issues that everyone has raised. But the real question has to be: what are the probabilities of success of this code and what is it that we are trying to achieve? And if what we are trying to achieve is to stop people from gaining access to pornography that is outside of Australia I suspect that even the best intentions cannot—whether you legislate or you live with a voluntary code of conduct—really make a huge difference. It might make it a little more difficult for people who do not know anything about the Internet to access pornography, but fundamentally it is a little bit like drugs and alcohol: if minors want to get their hands on alcohol and they work hard enough, they will eventually get their hands on some alcohol. All we can do is try to make it more difficult. On the Internet it is very hard to make it too difficult for people to do anything, because of the structure of the Internet itself.

CHAIR—Of course, the association's evidence did confirm that in any case the codes of practice would only be voluntary to the membership of the association. That presents another dimension to this issue.

Senator MARK BISHOP—I have two issues. Could you expand on the impact of this for smaller, low profit or regional and rural ISP providers?

Mr Marzbani—Yes. And the second issue?

Senator MARK BISHOP—Do you have any statistical information on demand levels for filtered services or blocking software?

Mr Marzbani—Yes. Firstly, the impact on smaller Internet suppliers will probably be high because most of them cannot really afford to engage in processes of continuous communication and updates of router tables or other activities required to block out software. When we say the impact will be high, if you take 15 minutes out of the day for a small Internet service provider who has one technical person, we would consider that to be a high impact. If they have to deal with people potentially suing them because certain contents have not been blocked, that would also be a very high impact. A lot of them would obviously rethink staying in business and providing the competitive services that they are providing.

Overall, additional regulation for Internet service providers, as such, would probably have a worse impact on the smaller players than the larger players—although, for larger players, it would have a different type of technical impact which would deal with the speed at which the networks operate and the limits to which technology is being pushed.

In terms of demand for filtered services, software and products, right now the percentage of online users who are actively pursuing these products is quite low. It is some 15 per cent. What does that all mean? It basically means that most of them are reasonably comfortable with how they are using it themselves, that they may not have children in the household they need to block access from or they are comfortable with how they are monitoring the children.

However, if you look at companies such as AOL Bertelsmann, which is the Australian joint venture of America Online and Bertelsmann, they have always offered a reasonably standard service for parents to use to provide a safer environment. An Internet service provider in Perth called iiNet has also been offering these services. Take-up rates will vary over time and we believe that over time more parents who are not technically literate will feel more comfortable going with a service that offers a filtered or controlled environment for their children. It does not mean that the service will be 100 per cent foolproof as there really is no such thing. However, there will be a number of parents who will feel more comfortable with this. We have provided separately some additional information to the IIA into the statistical analysis of concerns and users, which I believe they will present later today.

Senator MARK BISHOP—Did you say that over time parents would become more comfortable at accessing filtered services or uncomfortable with accessing filtered services?

Mr Marzbani—Over time, parents will become more comfortable, because you will get new users coming online who are not technically savvy and who may not be comfortable with monitoring what their children are doing online, as we move more towards the mass marketing option of the Internet compared to where we are today.

Senator CALVERT—Just over 12 months ago, you gave us evidence that there were about 1.6 million users and you gave us the break-up. Have there been any significant changes to that number and the break-up?

Mr Marzbani—Yes. Today we would have close to 3.2 million Internet users. We break it down as follows: as at the end of December 1998 we had around 1.7 million regular Internet users who were accessing the web once a week or more, we had about half a million who were accessing the web less than once a week and we had another one million users who primarily use the Internet for email, with work being their main point of access.

Since the end of December, we have been adding about 60,000 to 70,000 new Internet users to the 3.2 million total every month, with the bulk of them having web access. We have also been seeing around one per cent of the one million email only users gain access to the web as well. So the number does keep growing and the overall number of regular web users is growing at between the three per cent and five per cent per month at the current time. This is being driven by people who are accessing from home but more so by people who are accessing the Internet at work, where it is being provided to them by their employers. So the nature and structure of access to the Internet is changing with an increase in business hours usage.

Senator CALVERT—Thanks for that. You did give us another figure in camera on the amount of pornographic material that appears on the Net. Has that changed in the 12 months?

Mr Marzbani—Yes. The figure that we talked about had to do with the volume in megabytes, which does not necessarily reflect the usage or the number of people who are using the Internet for adult entertainment purposes. Over the last 12 months, with this huge growth in the number of users, the percentage of Internet users who put down adult entertainment as their primary use of the Internet has remained constant at around the four per cent mark. The percentage of users that use the Internet for other applications has grown significantly. Their usage ranges from email to chat, to business and business related research, academic research, shopping and financial transactions, hobbies, sport and so on. What we have seen, and what we can conclude, is that adult entertainment is not as popular as it was 12 months ago. The new users coming online are using it either as a business support tool or to support other activities that they are involved with. The novelty factor associated with porn has gone away.

We have also seen a lot of the pornography sites in the US move towards pay models where they are asking people to pay with credit cards to gain access and, as such, demand for access to those sites has gone away. If you look at the top 100 or so popular web sites in Australia by Australians, only mild R-rated products like *Playboy* and *Penthouse* make the list in terms of unaided recall. So it is not as big a deal today because we are getting more of the mass market coming on, and we suspect that anyone whose trade or interest was only pornography was already online a year or two ago.

Senator LUNDY—To follow up some comments you made in your earlier opening statement, Mr Marzbani, about the trading relationship between Australia and the US and the need for compatibility in regulatory regimes to basically facilitate that trading relationship, in your view at what point would regulation of Internet content in Australia compromise the developing trade relationship between the two countries?

Mr Marzbani—The answer to this is reasonably straightforward. The moment we introduce any legislation it will have an impact. The moment people who import or export content or who create content or who repackage content have to think about anything other than what they are thinking about today or about anything other than what the Americans are doing today, that will have an impact on what is going on. This will be an impact in terms of import of product for packaging with other products which may be exported again. This has to do with the export of product. This has to do with where we host our products and make the money from the products that we have. It is quite significant.

I would really like to caution that we do not take the economic impact of restrictions, regulation or legislation lightly, if only because American companies also tend to be very sensitive about regulation in other countries. So we will see a change in the profile of what is going on if we were to introduce legislation.

Senator LUNDY—Further to that point, we have heard this morning from Dr McCrea a similar view in the sense that to particularly impose a blocking regime involving packet level blocking is particularly insidious. Have you had the opportunity to compare the various

blocking technologies? If so, are you prepared to make comments about the relative impact of each of those blocking technologies?

Mr Marzbani—We were actually testing the impact on user satisfaction and network performance in Singapore about 2½ years ago when they introduced the legislation to provide for filtered services. The general dissatisfaction amongst Internet users at that stage was quite significant with more than 60 per cent actually being unhappy with the impact on their speed of access to the Internet.

Fundamentally, it will slow things down in Australia. There is no question that if we have to have routers continuously checking all packets—which would be a futile exercise anyway because they are only going to catch the simplest levels of control—then it will slow everything down. The impact on speed then translates into an impact on commerce because the productivity associated with using web technologies is really at the speed with which we can download content and interact with it. It would certainly be seen as a negative impact.

Senator LUNDY—We actually heard this morning from Dr McCrea that the CSIRO, through further research, anticipated a 20- to 30-fold comparable time delay. He cited a current 30 millisecond speed level and then, after the introduction of a proxy server providing for application level blocking, that rising up to 100 milliseconds. From my point of view, I am not sure of the implications other than that it is a 20- to 30-fold increase. In your view, what is the implication of that magnitude of increase in just time spent online in accessing information for the purposes of e-commerce?

Mr Marzbani—That sounds like a twofold to threefold increase if it has gone from 30 to 100 milliseconds.

Senator LUNDY—I am sorry; I have just been advised that it was three milliseconds to about 90 milliseconds, so it is a 20- to 30-fold increase, as opposed to 30 to 90.

Mr Marzbani—That sounds reasonable. What you are doing is moving from transforming electrons through a connection through to going to a disk drive and hopping off the disk drive and continuing a journey, so that would slow things down dramatically. That is a huge price penalty, but the real problem is that trying to filter things using a proxy does not stop activities like people sending pornographic material that is distributed through email. Simply, it would be unthinkable for anyone, especially an Internet service provider or even the Office of Film and Literature Classification, to open up everyone's email to look for dirty words like 'playboy' or 'nude' or to try to decipher what the images are or to determine whether people use other protocols other than the web protocols to transfer and distribute this sort of content. The content, by the way, would still be done on a one-on-one or subscription basis; it would not really happen on a broadcast basis.

Finally, some of the worst pornography out there remains encrypted using encryption technologies; so, even if you were to try to look for it by opening everything that went anywhere, you would fundamentally see only garbage and you would not know what was going on. I suspect that illegal pornography is still in that basket. So if someone were to direct their energies as to what they should do, I suspect you would get a higher return on your investment, on your resources, by trying to deal with the illegal content rather than just

deal with R-rated or X-rated content. I think stopping illegal activities would still give society a bigger benefit than probably what is being proposed.

Senator LUNDY—With regard to the issue of illegal content as opposed to censored content under the regime proposed in this bill, do you have any figures on what proportion of illegal content is encrypted as opposed to just sitting on servers somewhere in the world?

Mr Marzbani—No, I do not think anyone has any figures on that, but commonsense would indicate that the sophisticated users are the people who are breaking the law, whether it is with regard to illegal pornography or avoiding tax. They have had access to these technologies and they have a greater incentive to use them properly. So it is only the amateurs who are going to get caught.

Senator LUNDY—Going back to the point about the increased time it would take for an electronic commerce transaction to take place if the material were going through a proxy server, do you think it would be possible to quantify, in cost terms, the impact of that increased time factor of 20- to 30-fold?

Mr Marzbani—There are two things. First of all, there is the delay from a user point of view. What is likely to happen is users will shun using electronic media, not just to do the transaction itself but to do all the supporting activities leading up to the transaction and any activities that follow the transaction in terms of dealing with the suppliers of goods. What you are doing is changing and degrading the experience that a user would get in interacting with an online environment. The moment you do that, you hurt demand. And hurting demand, in an industry that is growing at 30 per cent a month in some cases—20 per cent a month in others—is probably the last thing you would want to do. You really want to let demand grow and let things settle down before you consider any legislation that would impact on demand, and there is no question that slowing down an Internet user's interaction with content is going to discourage them from continuing to do transactions online. So if you wanted to hurt the Internet and if you wanted to hurt Internet electronic commerce, this would be one of the best ways to start.

Senator LUNDY—From your analysis of what is happening online, what are the issues of most concern to the Internet users that you surveyed?

Mr Marzbani—I believe the IIA will touch on this later today, but the issues of concern include things like security of financial transactions, response times, privacy of individuals, junk email and the cost equation associated with equipment and upgrades. Whilst indecent material is of concern to around 10 per cent of the population, out of the entire list of 12 or so concerns that we asked about 25,000 Internet users to select from in the last survey that we did in January or February of 1999, it is probably the last concern that they have overall.

Senator LUNDY—I have one final question. With respect to the issues of primary concern to Internet users being security and privacy, to what degree would the introduction of a proxy server application level blocking system compromise privacy of online activities of citizens conducting electronic commerce, electronic banking or those types of services? What privacy risk increases are there through the use of those technologies?

Mr Marzbani—It depends on what happens. Internet service providers, especially the larger ones, cannot afford to keep a record of all the data that people are requesting through proxy servers. However, if they were to keep a record of all this, which is really impractical, next to impossible and extremely expensive, you would probably see some reasonably nasty things happening where people's passwords, people's requests and so on would be logged. That is probably something no-one wants to see. It would have a similar impact with security of financial transactions, because proxies would record pretty much anything that is happening.

Senator LUNDY—So proxies would, by nature of the technology, record that activity?

Mr Marzbani—They would; however, most large ISPs do not hold proxy logs, because it is too expensive and impractical to do so. No-one does that at the large level. We would expect some companies that are on a smaller, more manageable level to do that, but even they would erase that stuff regularly. So it would have some impact, but certainly this legislation would not allay any of the major concerns that Internet users have, whether they are at the consumer level or at the business level.

Senator LUNDY—Does this legislation, in your view, address any of those half a dozen or so issues at the top of the list of issues of primary concern to Internet users?

Mr Marzbani—I would have to say no, if you really look at it in detail, and that is not because of any views held on issues associated with censorship. It really does not make the Internet a better, more efficient, more useful or cheaper exercise for the users. And if it is not doing that, it is really not helping anyone.

CHAIR—Mr Marzbani, do you have a couple more minutes? I am aware that we are five minutes over the time you said you were available, but Senator Harradine does have a couple of questions he wants to put to you. Do you have the time to take them?

Mr Marzbani—Of course.

Senator HARRADINE—Madam Chair, I know we have other witnesses waiting as well, so I will limit myself to one or two questions. What you are saying, Mr Marzbani, is: economic rationalism prevails. Nothing should be done about the Internet at all if it interferes with the market. That is what you are really saying, in response to Senator Lundy.

Mr Marzbani—Senator Harradine, as the father of an 18-month-old girl and another one due in September, what I am saying is that I am as concerned about stuff that I find offensive as anyone else is. But in the market today, the economic issues associated with Australia getting its electronic commerce activity synchronised with the biggest engine and driver of electronic commerce in the world, which is the United States, are important. That is the first thing I am saying. The second thing is that, even if we legislated as the government is proposing, it would not achieve the objectives that you are seeking.

I am not saying that slowing down or stopping things that we consider offensive is a bad thing; in fact it has got to be a good thing. I do not want snuff movies around. But snuff movies are illegal in any context, and anyone who is getting them, paying for them or

downloading them has to be breaking a law somewhere; and it is not a law that is dependent on the Internet. A snuff movie on video, transported by Australia Post, is no more or less illegal.

If we are dealing with the problem, let us deal with the problem. Trying to legislate them under technology that makes up the Internet is next to impossible and trying to implement solutions that are not even going to be effective, that are going to have a detrimental impact on the use of the technology, is going to cause more harm than good. That is really what I am saying.

Senator LUNDY—I have a point of order.

CHAIR—Senator Lundy, what is your point of order?

Senator LUNDY—My point of order is that I am gravely concerned that, because of the nature of my questioning in going to what I consider to be the particular expertise of Mr Marzbani, Senator Harradine has construed that as a particular reflection on the social values held by the witness. I object to Senator Harradine's implication that Mr Marzbani has little consideration for the social impacts of this question. I draw this to the committee's attention because Senator Harradine has made this observation in attacking several witnesses on the same basis.

CHAIR—Senator Lundy, you have made your point of order.

Senator LUNDY—We are traversing a complex bill that introduces social issues as well as technological ones, and I object to the way it is being handled.

CHAIR—Order! Senator Lundy, you have made your point of order. Mr Marzbani is as entitled as any other witness to decline to answer any question that is put to him. We are now 10 minutes over the time Mr Marzbani said he would be available. I call Senator Harradine.

Senator HARRADINE—I invite those who heard that outburst by Senator Lundy to read the transcript of this session and any others. Congratulations, Mr Marzbani, on the little ones. I am delighted to hear that.

Mr Marzbani—Thanks.

Senator HARRADINE—I will ask you a further question regarding the delays that were mentioned with respect to the use of filtering techniques. In terms of seconds, what are they to the end user?

Mr Marzbani—It depends on the technology, the investments being made by the Internet service providers and the list of excluded sites that are going to have to be checked against. If the list is very long—if it tries to be, say, 90 per cent comprehensive—this could be reasonably significant. This could add somewhere between 30 and 200 per cent to the total download time.

Senator HARRADINE—So a few seconds?

Mr Marzbani—No, the average page today—say a 50 kilobyte page or a 100 kilobyte page—already takes 30 to 40 seconds to download using a modem connection with an average Internet service provider. If you tripled the download time—if you made it 1½ minutes to two minutes—and if you were dealing with a smaller Internet service provider that could not invest in expensive equipment that was very high speed, changing it from 30 seconds to two minutes or 1½ minutes of download is a sizeable change, especially since the Internet was not really that fast in the first place.

Senator HARRADINE—We were told by another witness that it was a few seconds. I am not sure to what you are referring. You must be referring to a very substantial filtering program.

Mr Marzbani—I am referring to a substantial filtering program and an average size page that has text and graphics. If you are trying to download a page that has only text, obviously it is a different matter. But if you are trying to block pornography, where the whole thing has graphics associated with it as well, then the download would initially have taken a long time anyway.

Senator HARRADINE—Chair, I would have loved to have had extra time to deal with these things with Mr Marzbani. Mr Marzbani, we have been told that Moore's rule is that there is will be an increase in computer power, doubling each 12 months. Have you taken that into consideration?

Mr Marzbani—Yes. Moore's rule does not actually deal with telecommunications at all. The bottleneck, contrary to the Intel advertising that we see on TV telling us that the Internet is going to be a better experience if you get a faster Intel processor—and Moore was one of the people initially involved with Intel—does not hold, merely because the bottleneck is in the download speed through the networks and finally through the Internet service provider. The cost of Internet access and downloads remain high. Downloads will remain a scarce commodity even with the introduction of satellites and more cable capacity in a year or two. Moore's law does not apply to downloads at all. In fact, downloads is anything but a commodity, and the cost of good downloads is not really going down at all.

CHAIR—Mr Marzbani, Senator Bishop wished to clarify one technical point.

Senator MARK BISHOP—We were told earlier that the impact of filtering devices would delay processing from three milliseconds to 80 or 90 milliseconds per thousand. That does not strike me as a great delay in time—from three-thousandths of a second to a 90th of a second.

Mr Marzbani—Actually it is, because what they were talking about—and I am making an assumption here—was the time it takes to process one packet, and one packet of data is a very small part of a webpage. Packets range in size, but you are talking about thousands, ten of thousands and sometimes even hundreds of thousands of packets to make up a page. The delay is associated with a small packet of data which on its own is totally meaningless. If

that is what they were measuring, that is good, but they should have probably explained how that translates into more practical things, like a page with lots of photos.

CHAIR—Thank you very much, Mr Marzbani. I just remind you to please fax your opening statement to us.

Mr Marzbani—I will do that straightaway.

CHAIR—Thank you for making yourself available this morning and for allowing us to go over time.

Mr Marzbani—It was my pleasure. Good luck.

CHAIR—Thank you very much.

[11.59 a.m.]

BRITTON, Mr Charles Crawford, Senior Policy Officer, IT/Communications, Australian Consumers Association

BUN, Ms Mara, Manager, Policy and Public Affairs, Australian Consumers Association

CHAIR—Ms Bun and Mr Britton, I thank you for your patience. I am very sorry that we had to interrupt your evidence in that way.

Senator LUNDY—I go to a couple of points arising from your previous statement and also evidence offered by Mr Marzbani concerning the consumer impact. In terms of costs as a result of the increase in time that people will be required to spend online to access contents, can you offer some perspective, from a consumer's point of view, as to the impact of this?

Ms Bun—I think at one level is the time spent at the desk uploading or downloading, which is very frustrating. In all of our tests on access to Internet service providers, we see users shuddering as that changes, depending on the supplier. I think it is an issue that affects supply as well as demand and, in a sense, the interaction between the two. I have had the privilege of sitting through board meetings with the NOIE board right across the country, from Tasmania to Western Australia and Queensland, and meeting not just with the small business and medium size business community in those areas but also state governments that were desperately trying to develop a model to improve the way they deliver health services to rural and remote areas, for example, or to try to understand how to work within a health and education budget that actually improves outcomes for people. Every single time that we discussed, on opening, the issues affecting users and the community from a supply base, bandwidth and pricing was always issue No. 1. That resonated so much that we talked about it at half of the meetings. That is important for consumers, not because we care about how profitable small businesses are—although they are a crucial part of our community—but because ultimately the supply of Australia specific products and services, whether they be private or public, greatly depends on affordability and quality of bandwidth.

Senator LUNDY—You have reminded me of the most recent set of ABS statistics which show that the socioeconomic barriers of bandwidth cost and service cost were preventing a large proportion of the less advantaged part of the Australian population from getting online. Do you think that any increase in the time factor that we have heard about, and the resulting cost impact, could further create a chasm between what we call the information haves and have-nots and the socioeconomic barrier to Internet access?

Ms Bun—Obviously the immediate issue is the proposition that any household or individual confronts about getting online. If it is more expensive to get the same outcomes, yes, we can imagine that that would be a barrier. If it is about the possibility of governments funding access, whether it be through the Telstra fund or what have you, and providing a similar or even greatly improved level of adequacy, again, I think there would be an impact on consumers. But the broad macro picture—not just the macro-economic but the macro-social picture—is amazing. We live in a country that adores new technologies. We take them up like hot cakes, which is terrific for the economy and wonderful for consumer use. And

here we have a proposal that so many different experts, many of whom are not in it for a buck, concede may put that at risk. That is a great shame, especially when we can give parents and individuals the tools to negotiate on filtering—not just in their individual relationships with their kids but through technologies and their own computers.

Senator LUNDY—What I am concerned about is children becoming proficient at Internet access through school, their public library or whatever, when their parents, through socio-economic barriers, are not able to facilitate their own awareness, to educate themselves, because they cannot afford to get online. How is that contributing to the debate we are currently having—that concern that parents have or that disempowerment of parents that is occurring when their children have access but they do not?

Mr Britton—I draw your attention to one of our attachments on testing Internet service providers that *Computer Choice* did. One of the things that seems to be apparent in this discussion is the difficulty of getting benchmarks. The figures in this attachment illustrate the problem of the wide variability. If you look at the costs and the quality trade-off, which is what was looked at in the study, and the usage patterns, you find a range from \$100 to \$500 in costs for light users, but with comments on service like ‘poor’ and ‘none’ through to ‘good’ and so on. You have a very big cost/quality trade-off within that analysis and then you have costs that run for heavy users up to \$2,000. It is very difficult to pick a number in there and say, ‘Oh, it’s going to go up by so much,’ or whatever. Inevitably, it seems there will be impacts in terms of dollar costs to people as ISPs invest in equipment, et cetera, as well as performance.

On the following page you will see that, in terms of performance, there was measurement of the download times for ISP pages. Again, when you look at the figures you will see a wide variability in that time to people. It is very difficult to say, ‘The impact will be this.’ It is extremely difficult to be definitive and not only because of the mix of ISPs, the mix of people’s demands, the mix of pages they look at, et cetera.

Ms Bun—Again, looking at the broad economic consequences and the affordability issue, which is what you are getting at, inevitably if our take-up and efficiency as a nation, which has driven prices down and diversified services over time, is checked or somewhat reversed in a climate worldwide where all of that is improving in so many countries, I think it would have consequences on the economic periphery especially, because it would limit that affordability.

Senator LUNDY—What about the social impact if Australia’s famous technology take-up rates have a hiccup as a result of this? What is your view of the longer term social impacts of what that will do to Australians, their lives, their quality of life, their children’s opportunities?

Ms Bun—We would not be testifying here before you if we did not really care about that. I guess we would see it as dog years in the Internet: a year in the Internet is seven normal years. Any changes at its infancy will have longer term consequences, combined with the fact that we know from experience that building a pipe in the bush and expecting somehow to see e-commerce and all kinds of education flourish simply does not work. It is the layering together of state government services and expenditure, Commonwealth

government services and expenditure and private sector delivery that matches the needs of that community and so forth. All of that has the potential to get expensive, to slow down, to get bogged down, at a time when the world is speeding along very quickly indeed.

Senator LUNDY—Ms Bun, you described your involvement in the NOIE board and the various endeavours on behalf of the government to facilitate, as you say, growth in the Internet. Is it your view that this bill contradicts in some way government strategies on those other platforms or in those other programs?

Ms Bun—In my view, the government has a very noble objective here. I don't think anybody would deny that this objective is an important one. So how could you possibly say, 'Stop moving in this direction'? The difficulty we have is a top down approach as opposed to a very empowered bottom up approach. We simply think the former won't work and the latter would be such a terrific thing. Plus we have this grave concern that parents, particularly those parents that Ramin is talking about, the ones who have recently come on, who aren't the enthusiasts—they're just learning about the technology—may not feel the need to have those conversations with their kids or to look at the possibilities and at what is happening at school if they think, 'Oh, yes it has been taken care of.' And we don't believe it will be taken care of.

Senator LUNDY—Further to that point, when we spoke to NOIE before this committee they identified four main thrusts of the bill in their view. One of them was an education campaign aimed at parents specifically for the purposes of empowering them. They alluded to the notion of public encouragement of parental learning in this area. They also said that that investment, that program, that initiative, has not been done yet, so the government has not been in a position to assess the various merits of such an approach.

Two things I am looking for from you are: is that your understanding of the situation and to what degree do you believe such a publicly funded program of parent education in relation to the Internet would go towards resolving what you quite rightly cite is an issue of grave social concern?

Ms Bun—Clearly, I don't speak as any formal affiliate of NOIE's whatsoever. These are just our perceptions, I guess, from the ACA. Our perceptions would be that certainly it is the case that NOIE has quite a bit of expertise at what they call 'awareness raising'. In fact, a summit just happened that capped off a series of regional summits which have been very good at bringing out growing communities and small businesses and what have you. Not only has there not been a very, shall we say, articulated public effort on this particular issue by NOIE or anyone else that we are aware of—and that would be an important thing—but again it is not just education that we are after; we would be very happy to force every Harvey Norman retail store, when they package up a modem, to have something on it that says: 'You are about to buy something that could get your child in the wrong place, and here is what you do about it.' And yes, helplines and hotlines and all of that would be just terrific.

Mr Britton—It is worth noticing that the Australian Broadcasting Authority made a recommendation in August 1997 to identify community education as a key driver of any action taken concerning children's interaction with the Internet. Our point is that educating

parents is a truly effective thing that can be done now. We have more than adequate technology to address the process of educating parents, and that is the thing that we can do. So if there isn't an urgent need to address it—which I believe there is—then we should be doing what is effective rather than, necessarily, what maybe technologically we don't know about.

Senator LUNDY—Just one final point, going back to the question of bandwidth and its affordability and accessibility. Ms Bun, you mentioned the bandwidth inquiry that is currently taking place. Can you provide to the committee a brief explanation as to what motivated the bandwidth inquiry?

Ms Bun—I can certainly provide you with my understanding of it. I am sure it is different depending on who you ask. It is a clear recognition. It is happening from around the world that, as we have this integration of social services and economic services delivered over the Internet and all of the competing technologies which also provide bandwidth, we have to think very carefully, number one, about making sure as far as we can that we have taken all responsible steps to identify problems as we look forward without pretending that we can really focus on who is going to demand what and, number two, that we understand that as a barrier right now it is a crucial one. At the ACA we constantly deal with suppliers who tell us, 'The reason why it doesn't perform that way is because at the right price I can't get the bandwidth. If only, like my competitors in the States, I could.' So it is very much a development.

Senator LUNDY—It is about access to and efficient use and cost of what I think Mr Marzbani alluded to as not being a commodity but, in fact, a resource?

Ms Bun—That is an interesting question. I was just at an IBC conference about bandwidth on Friday. The whole beginning of the conference was all kinds of economic experts talking about how bandwidth will be a spot market. It is just a matter of six months or a year; it is already operating. So it is very much a commodity, like pork bellies. But clearly we are not there yet because you can tell when you have experienced that as a business or a consumer.

Senator TIERNEY—Ms Bun, you seem to give a lot of credence to the veracity of procedures at the end point use, particularly empowering parents, educating parents, to help their children avoid unsuitable material. Are you aware of the figures relating to different age groups and their abilities on information technology, the comparison of five- to 12-year-olds, 12- to 17-year-olds and 17- to 25-year-olds, 25-plus, which are all very distinct groups?

Ms Bun—We research those on pretty much a monthly basis.

Senator TIERNEY—Excellent. So on that basis, if you have researched it, given that younger people are quite savvy with this technology compared to their parents, in what way can parents effectively guide their children if they do not have anywhere near the level of sophistication and ability in the use of this technology as their children?

Ms Bun—I guess I would go back to one of Ramin's points, which really does focus on how this is becoming a mainstream technology, and that is that whereas certain categories

are staying relatively fixed, other categories are growing relatively quickly. So we, like any other educating group in the marketplace dealing with those new people coming online, are aware that yes, some of these kids will have had experiences in the school system.

Therefore, when parents are starting to figure out how to bring that technology into the home—we think it certainly will become a permanent fixture—the kind of education that you give is exactly the kind of education that I read out to you in the beginning. It is not easy. It is talk about it: ‘Some of the things you may come up against are yucky. Let us know.’

Senator TIERNEY—You are always going to have that gap. As you move on through time these technologies are going to become more sophisticated, so the catching-up point is always going to be a problem. By the time younger people become parents, obviously the technology will have moved on and their children will probably be more savvy with it. My point is, and I would like you to comment on it: how on earth can you rely on parents to be guardians of their children on Internet access, given the enormous gap in levels of ability, which is going to continue?

Ms Bun—Well goodness—for 40 years we have been helping parents to walk their way through complexity in pharmaceuticals, white appliances and cars. This is a very difficult one but it is clearly happening around the world. To us, the alternative is one which we would characterise as not being in the public interest, either from a social or an economic point of view. You will not achieve the technological fix to make the problem go away, you will not focus on the demand side tools because in attempting a top-down approach that will be the focus. In the end, the entire engine room, not only of our economy but increasingly of our society, will be compromised. We think that is serious.

Senator TIERNEY—If we stay on the demand, consumer use side for a moment, I am not saying we should not try this. Obviously, we should do everything possible on that level. What I am putting to you—I think it is fairly self-evident—is that it is going to be very patchy in its effectiveness, depending on how computer savvy parents are. A lot of parents do not want to go anywhere near it; they fear it. That might change over time, but we have a real problem at that level that will not be fixed at the level, despite the gloss you have put on it.

If we go to the other side, you seem to think that we should do nothing in terms of what comes through Internet service providers and say we should not stop this at all because of possible dangers. I am wondering whether you heard the evidence from the CSIRO today. They did not say it is impossible or rule it out; they said it is difficult and suggested some ways of doing it. As protectors of children as consumers, as protectors of parents who have children, I wonder why you are not taking up their case on this.

Ms Bun—I will reread my opening statement because I think that is the only answer.

Senator TIERNEY—You do not need to reread your opening statement. I am wondering why you are taking the line of business rather than consumers.

Ms Bun—We are taking the line of consumers because we firmly believe that it is in their interests to have a viable environment for the growth of a technology that will be so

important not only for their ability to shop around—that is incidental—but for their ability to engage in a world that is increasingly connected. We think that is very much the responsible course of action.

CHAIR—Thank you, Ms Bun and Mr Britton.

[12.19 p.m.]

FRITH, Prof. Stephen Hamilton, Director (ACT), Young Media Australia

JUPE, Ms Toni Heather, Media and Communications Manager, Young Media Australia

CHAIR—Welcome. The committee prefers that all evidence be given in public, but if you are asked a question at any time to which you wish to give your answer in camera, please indicate that you would like to do so and the committee will consider any such request. We have received your submission which has been published by the committee. I invite you to make an opening statement, following which we will ask you some questions.

Ms Jupe—Young Media Australia is very appreciative of the opportunity to address the committee on this matter. As you well know, Young Media Australia's resources are not the greatest. Unfortunately, we do not have the backing to produce reams of documentation on this matter. To a certain extent we see that as a strength because we feel that we represent the broad parent community that feels that it is not really across the more technical aspects of some of these issues, yet they are being told on a daily basis that virtually all the responsibility for doing something about the protection of their children from any harmful effects of the technology is entirely their responsibility.

We agree that parents ought to take a great degree of responsibility but, as with other forms of media, we also believe that there should be a triangular partnership on this matter between the government, industry and the community, in particular the parent community, and that there ought to be very solid and firm commitment to a partnership of this kind. As outlined in our written submission, we believe that currently the legislation does not go far enough towards a position on that. Whether our ideas be the sort that need to be included in the legislation per se or can be adopted in another fashion but still given the strength of being legislated is not really our forte. We would be guided by the parliament on that.

I would like to summarise some of the points we make. When it comes to the issue of whether the Internet can be regulated—should be regulated—we can see both sides of the story. But we are not so much concerned with this issue as with the gap that might exist if the legislation is adopted as it is or if it is changed substantially or if it is not adopted. We are not sure we could have a huge amount of influence in this, but we do believe that, whatever happens, there has to be a commitment to doing something to help the parent community. As has been stated in many submissions to date, this is an expensive exercise. It is not something that can be done quickly and easily, leading to a solution; it would have to be a long-term, ongoing campaign or program. As with many other forms of media where we have made these sorts of suggestions, this is a quite difficult area for governments to tackle. We say, of course, that this is an area, a responsibility, that ought not to be shirked.

We empathise with sections of the industry that say they are being given too much responsibility in this regard. As we have said in this submission, however, we do not believe this means that nothing should be done. We have had brief, informal discussions with sections of the industry to the point that we have formed an opinion that there is a very large number of operators in the industry who want to do the right thing. They believe that some form of legislation or regulation is necessary, in partnership with a code or codes of practice.

It is those sections of the industry of which we are very supportive in their agreement to be responsible about this issue. We do not have any statistics on how big that section of the industry might be. However, we are confident that, if the sorts of schemes we are proposing are put into operation, as a kind of recommended provider or host or other type of approval scheme, the parent community we advise, the people that come to us for information and advice about these sort of matters, would be also confident. If we were steering them in a certain direction, they would be confident that the people towards which we were steering them were more likely to be trustworthy as to their interests than if they were just left to their own devices, if they had to go wherever they could based on the advertising and marketing they came across on how to acquire the technology.

Some very good points have been made today, and in some of the submissions, about the level of access the parent community currently has. It does appear to be a rapidly growing market, and we are concerned that we are in a phase—and we do not know how long this phase will last—of creating an information rich and an information poor society.

It is those families from low socioeconomic areas who tell us that they struggle with not just meeting the costs of the technology but the ability to understand how the technology works and how to determine what their own needs are in regard to that technology. The classic story we get is the parent who says, 'I keep reading every day in the newspapers that I am neglecting my children's education if I do not have a computer in my home or access to the Internet. I feel like I have to get it, even if I cannot really afford it.' There are many families who will buy the technology when they should really be buying the kids shoes or something. This is a very big area of responsibility that is not being met at the moment in providing cheap, easy and reliable public access to the technology so those families do not feel that they are not being good parents.

Parents also tell us that they are, to a certain degree, frightened of the technology. There is a definite barrier there for many families. Once they have started to think about whether they should have it, they know so little about it and they feel they are getting so little help that they just choose not to think about it.

Sometimes, the issue of how to ensure that their children are having beneficial use of the technology, and that it is not harming them in any way, can be seen to become secondary. If adults feel they are bamboozled by how the technology works, they will abrogate the responsibility to the children. We have all heard the classic story of the child able to program the VCR before the parent has any idea about it. It is a very great concern that parents will say, 'My child is learning about this kind of activity at school and I trust the way the school is doing it. I will just have to trust that my child is getting it right.' To a certain extent, the child then becomes the teacher. The danger here is the child's cognitive development is not at a point where he or she can understand the total ramifications of what is going on in the home. These are some of the main points I would like to make.

There is a concern for us also at the level of what you could call the commercialism of the process. The feedback we get from parents is as much to do with the cost of the technology in the first place, but then it becomes a case of: 'I don't know whom to go to for advice and information'—just to buy the hardware, for example—'and I don't trust the people out there. I don't know for sure that when I am going to a store and asking them they

are actually giving me the information I most need.’ They are asking us to help them figure out what their needs are first before they go looking for the technology and the access.

CHAIR—Professor Frith, would you like to make some additional comments?

Prof. Frith—I draw attention to the history of self-regulation in broadcasting in Australia and worry that the philosophy of self-regulation that underpins current policy leaks a little and that a co-regulated regime probably is the only flawed alternative that we have seriously as an option, given the failure of regimes that are too highly regulated. However, my concern is that, under a co-regulated regime, unless there are adequate complaints procedures that are informed by community awareness and parental education that is properly funded from government, the community side of it will fall to bits.

Senator MARK BISHOP—I have one question. When I glanced through your submission, Ms Jupe, it has a lot of emphasis on self-regulation, community empowerment, and family and parent responsibility. Having that philosophical underpinning, do you think it is appropriate for government to mandate the availability of filtering devices through all the ISPs—not mandate the use, but the availability—so that subscribers, whether they be parents, public agencies or whatever, can choose to access a filtered system for their home or private use?

CHAIR—Senator Bishop, can I just clarify something. The submission that you are reading from is the previous submission. This is a second submission. But, by all means, I am sure Ms Jupe will want to answer them. I just wanted to make sure Ms Jupe is not confused.

Senator MARK BISHOP—Thank you for that, Chair. I will have a look at your latest submission. I presume your overall philosophy has not changed.

Ms Jupe—No.

Senator MARK BISHOP—So could you answer the question?

Ms Jupe—It is a difficult one for us because, as I said, we can see both sides of the story. We can see several different angles. I would have to put it in the perspective—as Professor Frith said—that we have not found self-regulation and co-regulation to work as well as we think it should in other forms of media. So we are cynical—I guess you could say we are sceptical—about the ability of any form of regulation, in this instance, to work as well as it could and should unless that triangular partnership is there. In other words, we do not have a firm opinion on whether that form of regulation should be adopted or not because we do not profess to be experts at what will happen if it is. But we believe something is better than nothing. If there is a fall-back position available to the government in the event of that style of technology not working, that is good from our point of view—to have something to fall back to. But we are saying that nothing will work unless the community is a partner in that whole process and a commitment is made to that education angle.

Senator MARK BISHOP—So you have the education angle and the dissemination of knowledge to the community. The availability of filtering devices through ISPs gives the

practical expression to community awareness. I ask the question again: would you be in favour of government mandating the requirement of ISPs to make available filtering devices and for consumers to then choose from the filtered end or the non-filtered end?

Ms Jupe—We would be in favour of a system whereby ISPs make the technology available to the consumer when the consumer requires it. If the only way to achieve that end is to mandate for that filtering or other technology to be available, then the answer would have to be yes.

CHAIR—Do I understand that to mean that you do not believe that retailers such as Harvey Norman ought to carry the onus of proof there? I think you were here when the previous witness talked about Harvey Norman. Should we have a situation where, when they sell a computer, they should have the responsibility to say to the purchaser, ‘Here is a range of filtering devices that you as a parent ought to be aware of’—in other words, putting the onus of responsibility on the retailer?

Ms Jupe—Ideally, that would be a great situation, but I do not think that would be fair. Ideally, Young Media Australia would say, ‘We have a product. We would love for anybody—whenever sells the end user the technology—to make that available too.’ The rider I put to that is it is an extremely expensive exercise.

CHAIR—Do you run any courses now for parents who might phone you and admit to being confused? You have already told us some of them do. Do you offer them anything now, as a product?

Ms Jupe—Yes, Young Media Australia has what we call the CyberSafety project. I have brought these here to be made available to the committee. In essence, as we say in our written submission, it is part of a hands-on course, although we make the manuals available by themselves. The hands-on courses at the moment are running only in South Australia. Unless an organisation or a person with a great deal of money said, ‘We will fly you to Sydney or wherever to run courses for us there,’ Young Media Australia cannot afford to do that off its own bat. But there are lots of other possibilities I guess you could say for the project that we have not explored yet and we would very much like to expand all of those services that the project can offer throughout Australia.

CHAIR—You talked about parents who speak to you about their confusion and apprehension about the net. What sorts of things do they ring up and tell you they are worried about? Are they worried about the amount of money the child will spend in being on the net? Are they worried about text content that they might see on the net, such as how to shoplift or whatever? Are they worried about violence they might see? Are they worried about pornography they might see? What kinds of complaints do you get?

Ms Jupe—We get the gamut. Feedback comes less in the form of complaints than as observations, if you like. I think it would be fair to say that many of the people who come to us are people who have not really had much experience with this technology at all yet. Some have not had any experience with a computer and we have to teach them what a mouse is. Then we will get some people who have a bit of experience with it and, once they have had a bit of a taste, they can see the potential, but they would just like to know a bit more,

particularly if they are going to make it available to their children. So the gamut is all of those things you mentioned. But, if you asked me the things that they seem most concerned about, I guess it is some of those less glamorous issues like stranger danger in email and chat and the likelihood of children giving out personal information and that being exploited by somebody else. That is a big one for most of the people that seek our advice.

There are issues of pornography, how to build a bomb, drugs and violence. On the violence issue, as you will know, it is an issue for us across all media. We have been extremely disappointed to date with the response we have had from government and industry and just about any other sector about whether violence on the Internet even can be harmful. It is an evolving process, of course, but our view has always been that if it is agreed that violence in other forms of media can be harmful to children, particularly young children, then it seems to make sense that violence, particularly in games, on the Internet can be harmful to children. Whenever we have stated that publicly, we have been pooh-poohed by just about everybody and told to prove it. When we have produced research evidence, particularly in relation to major studies done in North America, some of the people that we have given that information to were unaware of its existence in the first place when they should have known it existed and then have seemingly chosen to ignore it, particularly in formulating new policies. So violence is a big concern for parents.

A lot of people who come to us want to know about the gamut of media. The issue that is now starting to occur to them is the convergence of all those media within the online area. So they do not see it as a distinct form of media from all the traditional media, if you like, as a lot of other people might.

The possibility of children accessing their credit card accounts and using them on the net and spending money and all that sort of thing is an issue. A lot of parents say to us that they have seen mention of a child spending in the most recent case I believe several million dollars without the parents really being aware of what was going on. An issue about that is that parents who talk to us feel that they are trying to be responsible and they are trying to make themselves a bit more aware but they are getting absolutely no help from the people that they believe they should be getting help from. We have had experience of some very good operators and some experience of not so good ones, and some operators are in it only to make money and they do not care who they exploit. Online advertising and exploitation of children commercially is possibly a much bigger problem than any other form of media.

Senator TIERNEY—Were you here when Ms Bun from the Australian Consumers Association gave evidence?

Ms Jupe—Yes.

Senator TIERNEY—So you heard what she had to say. She seemed to be wildly optimistic about how parents could control this sort of information, if they wanted to, from end use. Could you comment on what she said and what you feel the strength of these applications is at that end?

Ms Jupe—We had parents tell us the range, I guess you could say, of reactions. They go from, 'I found a product that was excellent and suited my needs. I am fine and I am

confident that it will work in my home,' right through to parents who say, 'I tried something and I gave up,' or parents who did not have any idea really how to apply the technology; they do not understand it. As much as the fear barrier, if you like, a big problem is that a very large number of parents that we talk to really are looking for somebody else to find the solution for them. They really like the idea that the provider or somebody else along the chain can give them good, sound advice and actually help them in a form of technical support so that they do not even have to install something on their computer at home, it is all done for them at the provider end. They think that is a great idea. That is why we think that a scheme whereby we would, in partnership with the industry, devise a recommended provider scenario seems to fit the bill for a great many of the people we come across.

If you are asking whether we think that people want to apply the technology, certainly a large number that come to us are very keen to have something put in place, but they feel they are up against a juggernaut of technology that is almost against them achieving their ends. As you will have seen from the CyberSafety manual and the sort of information that we provide, it is a very basic 'tips and hints' style of thing. The feedback that we get after we have run courses is that parents say, 'I started to put some of your tips into practice.'

They find that, once they have got some of the really simple strategies in place—like making sure that the computer is not in the child's bedroom, sitting down and talking with the child and establishing an agreement, and that other very important area of finding out what is happening in their child's school and coming to some understanding with the school about the way they do it, such that the two sets of practices in the school and the home complement each other rather than conflict—and once they are obviously starting to learn more about the technology themselves, things start to fall into place quite well.

Senator TIERNEY—You have mentioned the range of responses from parents. Obviously, with the high take-up of computers in the society, some parents are very computer-savvy, and they are the ones who feel comfortable. At the other end, of course, some parents know nothing about it. Could you give us some idea of the weighting of what you are talking about here? Do the majority of parents say they are not getting much help, or that they do not understand it and they cannot oversee what the children are doing, because they do not understand the technology?

Ms Jupe—Unfortunately, Young Media Australia can talk only fairly anecdotally, on the basis that we are not resourced to run massive research or survey campaigns. With the about 300 people that have gone through our courses so far, we do an evaluation with them at the end of the course and ask them for feedback later down the track, if they want to give it. I would have to say that it seems that so far the bulk of our clientele have been parents who know very little about it and have very little experience. They need to be shown how the Internet works in the first place and how to do email and do chat.

Most of them get very excited when they start chatting for the first time ever, and quickly two things seem to dawn on them. One is how much fun it is for them as an adult, and we always say, 'Put yourself in the position of a 10-year-old that isn't being supervised while they do this.' 'Oh well then; that is a different scenario altogether.' As we say with a lot of other media, there are different ages and stages at which both children and high teens understand and cope with the different things that they are coming across.

Senator TIERNEY—Ms Bun from the Australian Consumers Association seems to indicate that all we need to do is to empower these people to operate the technology. What is your view on our ability to do this, given the current resource levels and programs in place, the number of people who need this sort of assistance, and its future growth?

Ms Jupe—Currently, as I said in the first instance, the big problem is lack of access. Using the medium as the message is great to a degree, but if a lot of resources or the bulk of any kind of parent education campaign were to be put into doing it online, by way of web sites and other services to point them towards, you would be missing a very large slice of the population who may never take up the technology, and that would be a great shame. We are hearing people say, ‘Give us a taste. Give us an introduction to what is going on here and some guidance as to what you think is the best way to start out with this technology in the home. Once we’ve got that, we think we will feel pretty confident to go on from there.’

Again, based on our experience with other media, I think there would be a very large section of the population who will never do anything and to whom it might not even occur that they ought to think through some of these issues in the first place. You commented earlier about how we are already starting to see a generation of young people who are very technology-savvy, and maybe some of these issues about the fear of the technology or of not knowing how things work will not be a problem for them when they start having families. But currently the bulk of our clientele tends to be the mid-30s to mid-40s age range, many of whom might use computers at work and might even be online at work but who are still very concerned about what happens in the home. It is a different deal altogether as far as they are concerned.

I would like to mention another issue that is emerging and that we feel very strongly about, and that is a gender based issue. We have been hearing for very many years with TV, films and videos that, particularly when it comes to issues such as violence, there is often a conflict in homes between the mother and the father, where stereotypically—and, unfortunately, we can only generalise—the mother says, ‘I’m not so sure that our three-year-old ought to be watching something like that,’ and the father says, particularly about news and current affairs shows, ‘Oh, no; it can’t harm them. It is either real life and they need to know about that, or it’s fantasy and it’s not real and they can tell the difference.’ Unfortunately, with young children that is not the case, and viewing it is harmful.

We have a lot of women saying to us, ‘I have talked to my husband about this, and he is letting our four-year-old sit on his lap playing very violent games—Duke Nukem or whatever—or doing things online.’ With a child that young, it would be rare—and I have not heard of many instances of it—that the child is not supervised but, even so, there is the case of the male guardians saying, ‘I don’t think any of this stuff can harm this child whatsoever. Let him go.’

To us that signals an issue of the thinking that is going on there but also the issue of how you educate the broad parent community about the fact that there needs to be agreement in a home scenario just as there needs to be some knowledge and agreement, if possible, with the school community, such that the child’s interests are at heart for everybody. Those conflicts that arise in homes often mean that unfortunately the mother gives up and says, ‘Well, how can I fight that? I’ll just have to leave it to their father to do the best under the

circumstances.’ We are getting a lot of men to our courses. But when I survey the 10 people we get in for a course as to who is in charge of the technology in the home, often the father has all the technology at work and therefore the mother says, ‘Well, I don’t know anything about it. I am not really interested. I don’t want to know about doing it for myself but it does worry me that when the children start using it there needs to be a different set of principles in operation here.’

Senator TIERNEY—That is an interesting perspective. Thank you for that. With the courses you do run for parent education on various aspects, you mentioned groups of 10, but how many of those would your organisation do within a year?

Ms Jupe—When we first began the CyberSafety courses we were getting a regular flow. It has dropped off a bit as of the beginning of this year, only because we have reached a funding crisis point—I guess you could say—where we cannot afford to market it as heavily as we would like. We are getting a steady stream but we are probably doing only two or three people a week. I have started taking the courses on a one on one basis.

Senator TIERNEY—So how many people would you have had in these courses over the last year in total, do you think?

Ms Jupe—About 300.

Senator TIERNEY—Are you aware of any other organisations that are doing similar things in parent education?

Ms Jupe—We are aware of lots of organisations, particularly the multimedia centres and Internet cafe style places, doing a brief introduction to the Internet courses. Certainly, the one in Adelaide, Ngapartji Multimedia Centre, is running what they call cyber kids courses which are actually for the children but they insist that the parent comes and does it with them. So there is an element of teaching the parent as well. There are quite a few cooperative schemes, as far as I am aware, in some schools but I have not actually heard of another organisation doing what we are doing by way of CyberSafety.

Senator TIERNEY—If we do a rough figuring, if we take the group of parents who are completely computer savvy from their own work plus the ones who are taking on these courses and educating themselves, would it be a fair assumption that there is an incredibly large gap between that and the total market—that the people who have no knowledge of it, could not assist their children and do not know how to operate these things are not getting any help with it?

Ms Jupe—Definitely. As I said, we have not been resourced to do big surveys on this but there appears to be a fair amount of evidence that a growing number of people are interested in the technology, they are looking for information about it. All I can say is that the people who come to us are the ones who want to know about the children’s safety angle.

Senator TIERNEY—So it would be fair to say that the optimism of Ms Bun from the Australian Consumers Association that you can totally control this for your children from the end point across Australia is a little misplaced?

Ms Jupe—Our position is that, as I said earlier, no one scheme or idea, no regulation, no industry—voluntary or otherwise—being made to do something, nor the parent community being virtually left on its own to cope, will work at all. If all we had was an attempt at educating every parent in Australia, I still do not think that would be enough.

Senator TIERNEY—So would it be your view that the government should do additional things through regulation and through mandating for ISPs?

Ms Jupe—We believe there ought to be a framework. Whether what we currently have is going to be the best framework probably nobody really knows, but there has to be something in place that signals to the general community that some steps are being taken to get at least in-principle agreement not only that there is a problem and it should be addressed but that real effort will be put in to helping them as parents.

CHAIR—I note in your submission that you agree with the statement in the outline of the explanatory memorandum:

It is not acceptable to make no attempt at all on the basis that it may be difficult to block illegal and offensive material hosted overseas.

Senator Harradine, did you have any questions?

Senator HARRADINE—I am aware of the time and I will pass over to any of my colleagues.

CHAIR—Are you sure?

Senator HARRADINE—Yes.

Senator LUNDY—In regard to the whole notion of empowering parents and giving them the opportunity to make the assessment, I am particularly interested in your comments about the inequities that exist within families and who gets to access it. I was wondering if you had any material or studies or have collated a report perhaps as part of your organisation looking at those inequities based on socioeconomic factors. I am also interested in inequities between children according to whether they attend public and private schools, given that my understanding is that children attending private schools have a far greater opportunity to utilise and learn about technology in a structured way compared to public schools. Do you have any information of that nature?

Ms Jupe—Yes, particularly in the first area. One of the members of the executive committee of Young Media Australia in Adelaide is a representative of the education department. She represented Young Media Australia in Japan last year at a major conference on these sorts of issues. She was the one who came back and said that there is lots of research now coming to fruition on this gender based issue. I can get some of that material for you and send it along.

On the other issue of inequities and whether there is a difference between private and public schooling, unfortunately we are not in a position to do our own surveying, but I

believe that some trends are starting to emerge. I know that anecdotally with a lot of parents that we have dealt with—and there has been a fairly even spread parents with children in public and private schooling—the typical comment has been that where schools have responsibility for their own budgets, particularly in the public sector, they tend to spend what money they can get for technology purposes on the hardware and the connection and much less money on the education of the parent community as such. In many of the private schools that we have knowledge of in South Australia, there is much more of a commitment to have that partnership between the school and the parents so that the access scenario in the home is complementary.

Senator LUNDY—In terms of your ability to conduct these surveys and studies, who funds your organisation?

Ms Jupe—We survive largely on one-off project grants. We get funding from a variety of sources that we have to apply for and reapply for every year. For example, we get a small grant from the Australian Film Commission for a newsletter that we produce, *Small Screen*. We have been receiving a small amount—this year it was \$18,000—from the South Australian Film Corporation under the auspices of the South Australian arts department. We received a large grant to start up the CyberSafety project from the federal government.

But, as I said, largely any significant amount of funding has been one-off and pretty much lucking out to a certain extent. There seems to be no rhyme or reason for how we manage to score one grant compared to another grant. We like to think it is because we make good submissions about the sorts of projects that we think will be useful, but the reality is that we are a non-profit organisation with no secure ongoing funding. We have opened the doors, if you like, of our training centre in Adelaide for ordinary, everyday public access of our computer system when we are not running courses.

Senator LUNDY—Is that to raise revenue?

Ms Jupe—Yes. We are doing quite good trade by way of backpackers coming in and doing their email. It is certainly not paying our rent, as such, but it is helping.

Senator LUNDY—You are one of the few examples of a not-for-profit organisation taking the initiative. How much was that initial federal government grant for?

Ms Jupe—It was \$100,000.

Senator LUNDY—For what period of time?

Ms Jupe—The project budget was \$150,000 so we had to put in \$50,000 of our own. That largely came in the form of in-kind support and then we went out and got sponsorships and donations. That was basically a year-long project—from getting the money, getting up and running and beginning to offer courses.

Senator LUNDY—When did that project finish?

Ms Jupe—In June last year.

Senator LUNDY—What subsequent funding have you been able to get from the federal government?

Ms Jupe—For that particular project, nothing as such. I have to add that the Australian Broadcasting Authority and the Office of Film and Literature Classification have been giving us small grants—again, on an annual application.

Senator LUNDY—But is that specifically for the CyberSafety initiative?

Ms Jupe—To a certain extent, in that the ABA money, which has been about \$1,500 per year, has enabled us to maintain our web site. Unfortunately, that literally means maintain it and not upgrade it, and it is badly in need of update.

Senator LUNDY—So when that \$150,000 project finished last June, did you make application to the federal government to continue your initiative?

Ms Jupe—Yes. We have made application to several departments for various amounts of funding and for various schemes, some of which have been to do with the CyberSafety project and others are broader than that. They might include elements of CyberSafety but go towards other media. We often apply for grants in the mental health area and in the children's health scenario. Unfortunately, at the government level to date, we have not been very successful.

Senator LUNDY—I asked those questions because of the emphasis that you have placed as a witness, and the emphasis that many other witnesses have placed, on the need for parental empowerment in this situation. I think it is pretty well accepted all round that this is an essential area for government to pay attention to. In finally finding an example of a community not-for-profit organisation making an effort in this area, it provides an interesting perspective to see that there has not been ongoing public money committed to your initiative.

Let us look at the relative merits of the initiative as it is contained in this bill. It identifies in the miscellaneous section the need for parental education—you cite in your submission that this should be beefed up and become a more significant part of the legislation—against some of the technology based proposals to filter information. If you had to look at the relative balance between both of those initiatives, which do you think would best protect children from undesirable material on the Internet?

Ms Jupe—The parent education side of it because, if done properly and well, it brings all of those other aspects into play. As I said earlier, we have a healthy cynicism, I must admit, when it comes to some sections of some industries actually doing the right thing. Something that concerns us greatly is if this exercise turns out to have a similar lack of impact as the exercise that we believe the commercial television industry regulation scenario has gone through in the past few years. We would have to say we would be very sceptical that industry being largely responsible for community education campaigns would actually even happen, let alone work.

Senator LUNDY—In your organisation's experience in having received a two dollar for one dollar grant that concluded mid-last year, did you interpret the lack of continuing

funding for your initiative as a lack of commitment on behalf of the federal government to parental education in this area?

CHAIR—Senator Lundy, that question does not traverse the terms of reference that we are currently looking at.

Senator LUNDY—It is part of the bill.

CHAIR—That is not part of the bill.

Senator LUNDY—The question of parental empowerment is cited quite specifically as an element of the bill and I am asking this organisation about it.

CHAIR—Yes, Senator, but you have extrapolated it in a way which traverses government policy.

Senator LUNDY—No, I am asking how they felt about it.

CHAIR—Well, we will see what the answer is.

Ms Jupe—We would have to say that when we have applied for funding and have not been successful the response has always been along the lines of, ‘We would love to be able to help you but we just don’t have any money for that.’ Historically, Young Media Australia’s problem with generating secure income from any government source has been that the work that we do crosses such a broad area of portfolio responsibilities that it is very difficult—and it is understandable—for one particular portfolio or for a minister to virtually take us on.

In fact, we did go through an exercise with the South Australian government a couple of years ago where we specifically asked for cross-portfolio funding from several ministers and that was not successful to the degree that we had hoped. A couple of ministers said, ‘Yes, we’ll give you some money to help you pay your rent,’ a couple of others said, ‘Maybe we’ll supply some in-kind support,’ and a couple of others said, ‘There is no money,’ so it did not quite go how we had hoped. We have applied that approach with the federal government too over many years and, as I said, unfortunately we have come to the conclusion that we do not neatly fit into anybody’s specific portfolio.

Senator LUNDY—I have one final question. This committee has heard before that the total cost of this bill and its implementation—the costs of the ABA and of resourcing the regulatory initiatives—is \$1.9 million. What sort of community campaign do you think could be implemented with that sort of resource available? If you had that sort of budget, to what extent do you think that would go towards effectively protecting children from undesirable content on the Internet?

Prof. Frith—Is it \$1.9 million for the whole of Australia?

Senator LUNDY—Yes.

Prof. Frith—From our point of view as a community based organisation, that would be grossly inadequate, given the resources necessary to deal with the community based issues, the information and education issues that we are speaking to. In regard to your first question, whatever the outcome of how we feel about it, it certainly is an indication of the lip service paid to empowering community based organisations of any kind working with media.

I might also comment that in other countries, unlike this one, there is often a history of tertiary based media studies organisations which tend to be vehicles for community awareness raising of other kinds. Just as an accident of history in this country, that is beginning to emerge but has not yet emerged. There are other historical reasons why that might also be the case, such that organisations like Young Media Australia will also suffer a certain prejudice about being mums and dads organisations up against the technophobes of the industry. So it is a mixed case of the lack of understanding of what the potential for community based education programs might mean and the historical circumstances of media education in Australia.

Ms Jupe—It is true that the Australian practice in this regard is quite different from those in some other countries. In the States, for example, a lot of the major research projects and major work in this area are actually funded by the industries themselves. There are very large philanthropic arms to some of the operators there that we just do not have in Australia. It would be lovely to think that we could, but the media economy, if you like, does not support those huge amounts of money. That is not to say that some sections of the industry could not put some money into an effort of this kind. In connection with this particular inquiry, the preliminary talks that Young Media Australia has had with some sections of the industry indicate that operators who are very keen to ensure that something workable is put in place have expressed an interest in helping to raise funding for that very type of scheme.

Senator HARRADINE—To follow up the point you made about your concern about R-rated interactive games and the effect that they have on children, you did indicate to the committee your doubt that whatever industry associations there are would be able to come up with adequate codes of practice which would protect children.

Ms Jupe—An issue for us on this sort of thing is that we see no problem whatsoever with measures that catch illegal content and offensive material that, as the legislation states, would be refused classification X or R in any other medium. The problem, as we see it, is in all the other material that is available as much as that high level content.

Senator HARRADINE—I am just trying to go to the point that you made about the very violent material—the R-rated interactive material. You have obviously seen it.

Ms Jupe—Our experience is that, for quite a long time now, material that would be refused classification under the current computer games classification guidelines is freely available on the Internet, because there is no R category. Parents struggle with that whole scenario of the same type of material that is on TV, films and videos also being available on the Internet but often with a much greater degree of violence and other offensive material.

Senator HARRADINE—So you are in fact in favour of this legislation in respect of that. What you were saying about the educational area is not an either/or but, as I read your submission, something quite essential.

Ms Jupe—Yes. Regardless of what happens regulatorily, there must be a parent education program of some kind.

Senator HARRADINE—No amount of parental education would cover the situation of exploitation within the home environment and this material coming into the home environment by way of exploiters. I am talking about the content providers through the ISPs. A child gets home and mum is at work and dad is at work or, if it is a single mum, she is at work. Is it of major concern to you that those children can access R-rated violent games without the provision of an age authorisation?

Ms Jupe—Definitely, yes. It is for any scenario in the online services area that already is regulated in that fashion in other media. We believe that attempts ought to be made at that level.

Senator HARRADINE—So, despite its imperfections, this legislation is an attempt to achieve what you feel ought to be achieved? That is, the material should not be accessed—I am talking about the R-rated, extremely violent material, particularly interactive material; computer games and so on—without age verification procedures.

Ms Jupe—Yes. We agree that that sort of material should not be available to minors. We recognise of course that, depending on what kind of technology is used, there may well be a backlash in some families where the adults who should be able to access that sort of material find it is difficult for them. In other words, there are those two principles to be balanced. It is not a black and white thing, as everybody has been saying. It is quite a difficult area. All we can say is that we know it is definitely true that the more information and help parents and families have about how to figure out what works best for them in their home scenario, based on their values, the better. There must be some attempt to provide that help to them.

Prof. Frith—Could I comment on your first question, Senator Harradine. We are cynical about the self-regulatory philosophies that we have seen fail—

Senator HARRADINE—Join the clan.

Prof. Frith—particularly with regard to the toy industry, which is making profits from net based toys, essentially with computer games. Young Media Australia has held conferences in which toy manufacturers have participated, particularly concerning their codes of ethics. There is a general unwillingness to act on those codes of ethics, particularly in a culture in which so much advertising is directed at children. In our submissions to this committee in the past, in its various guises, the underlying principle we have worked on is that children under the age of eight or nine do not yet understand persuasive intent; that is, there are people out there who want them to buy something, for whatever reason. So in what way you can protect children below that age becomes an issue of their individual rights. There are various charters of the United Nations concerning children's rights in the

manipulation of children, but if you are not a rights based person there should simply be a care for children under the age of eight or nine.

There are a lot of people who say, ‘What about the 12-year-olds?’ and ‘What about the 11-year-olds?’ There are obviously different stages of development for children, not only in their understanding of sexuality and what constitutes violence towards them but also in the sale of commodities. It is something that children have to learn, and it is at that age that most children learn it. So I do not envy your job in drafting legislation to enact that. It is a difficult one, but we are not coming from a perspective of censorship as such being a foundational need in society. It is just that it is another strata down, that it is aimed very much at the care of children below that age.

Ms Jupe—Senator Harradine, with respect to your question about our faith in the industry, I would just add that the online industry is fairly new in comparison to the more traditional forms of media. So it is early days in terms of what kind of faith the community can have in the industry broadly.

This particular piece of legislation says that there will be an authority that will basically police and enforce the regulations and the code. What worries us is that, if that particular body or group of bodies is either underresourced or feels for one reason or another that it has to put all of its energies into a certain aspect of the process—from the lodging of complaint forward—what traditionally has fallen by the wayside has been a commitment to the flow of information from that process back out into the community so that the community can get a feeling that not only are things being done but that they are being seen to be done and that they are actually benefiting from that process—that their complaints are not just falling on deaf ears or that they have to have gone through all sorts of hoops to get their complaint investigated or worked on in the first place.

As I said, traditionally we have had a problem with the way that has worked in some other forms of media. We would want to see a tightening of the way in which that would work from the complaint point onwards by way of it being, in the language of the day, transparent and publicised, so that people know it is happening—not just that it is available to them but that, once they have made use of it, it is actually working and going somewhere.

Senator HARRADINE—In other words, what you are really saying is that the ABA has too light a touch?

Ms Jupe—We have been critical of the complaints process in some of those areas, particularly the amount of time it has taken. We have been critical of the lack of embracing—for want of a better word—of some of the evidence that we have put to them on the harmful effects of some of these things.

Prof. Frith—Also, the ABA is heavily constrained by its act. When issues are raised with them, they say, ‘These are our constraints.’

Ms Jupe—We have worked very closely with the ABA on quite a number of things and, as you know, we are on the Children and Content Online Taskforce. We very much believe that, with what is proposed at the moment with respect to the ABA’s responsibilities, they

would be much more successful at what is going to be asked of them if that third corner to the triangle was in place.

Senator MARK BISHOP—Professor Frith, I was caught by your comments when you addressed the nature of children—that they are independent entities in their own right—and their need for protection in their developmental stages. It went to a lot of the undercurrent issues that have been discussed by my colleagues for the last 10 or 12 hours as we have addressed the issues of censorship and protection of children—why we want to protect children and why access to advertising or access to sexually explicit material or violence is per se undesirable for young children. With that background, I would like to ask both of you a very hard question. To what extent does this bill, if enacted substantially in its current form, address those core issues that you have raised with us? Does it satisfy them 10 per cent, 20 per cent, 50 per cent, a long way or hardly any?

Prof. Frith—It obviously moves towards satisfying some of those needs, but I think you can overburden legislation with things that it cannot do. Whether the legislation exists or not, it is a wider community based problem of our culture—the long march of commodity through culture. I do not see this particular bill as solving all those problems but as moving towards them. We are not offering comments on the technological ways that that might be done; we are really, from our own submission, homing in on the aspect of community understanding. This aspect has been very neglected in other legislation, particularly the Broadcasting Act, where there is an expectation of community understanding about these things, particularly on the mea culpa aspect of the supply of goods and services to people where the issues of understanding for the community of what they or their children might be getting into are not really addressed.

I cannot answer your broader question; I can only encourage a stronger arm to the community based awareness and education programs, possibly either through organisations like our own or through the establishment of a greater infrastructure, particularly in universities, of media based programs that work towards a wider understanding of media in society.

Ms Jupe—Can I add to that, in an attempt to help answer your question, by saying that in all the areas of the media—but particularly the types of material that are available through online services—to a certain extent that will not be dealt with by the legislation because they are not necessarily high level; there are still some very problematic areas. We liken it to television in particular in that a lot of people see everything that is not rated R or at a higher level as being G—G meaning okay for kids of any age, any time or anywhere.

As with TV, where you have G and PG, we see a desperate need for a recognition, whether it be enshrined in legislation or not, of that age of development scenario. We have talked about a G8 rating in the TV scenario as being not necessarily something that has to be yet another classification that you would have a set of criteria against but as a signal to the consumer, to the parents, that material classified at a G8 level is recommended for children eight years of age and over, not recommended for children under eight years of age.

There is currently no real commitment to that middling area between G and PG, and in fact the PG area has been substantially watered down over the last few years in just about

every medium because so many parents now perceive that as also being G—that is, for general family viewing, from as young as three years of age and up—and that is where material available online is not really being tackled at all in this fashion.

Given that we agree that a censorship style of classification system for online material probably would not be workable, as it is in other media—or should work in other media—the descriptive labelling, as we call it, is as best as you can aim for under the circumstances and the more information people have about what they or their children are going to come across the better equipped they are to make decisions about whether they should see it or not.

Senator MARK BISHOP—Thank you.

CHAIR—Thank you particularly, Ms Jupe, for coming over from Adelaide to give your evidence and also Professor Frith.

Proceedings suspended from 1.32 p.m. to 2.08 p.m.

RITZ, Dr Dorothee, Business Affairs Director, AOL Bertelsmann Online Services

VERIGA, Ms Carol Ann, Managing Director, AOL Bertelsmann Online Services

CHAIR—I welcome representatives of AOL Bertelsmann Online Services. The committee prefers all evidence to be given in public, but if at any time you wish to make a response in private you may do so by asking the committee and we will consider that. We have received your submission, which has been published by the committee. I invite you to make an opening statement and then we will move to questions.

Ms Veriga—Thank you. I would like to express our gratitude for the opportunity to participate in this process. From the very beginning, the mission of AOL has been to build a valuable medium that improves people's lives and benefits society as a whole. In pursuit of this vision, America Online, operating under our two international online brands of AOL and Compuserve, has for over a decade worked hard to play a leadership role in fulfilling the medium's promise and in helping to make it a force of knowledge, democratisation, diversity, voluntarism and social advancement. AOL recognised right from the very beginning that the critical part of achieving these goals was making sure that we built a medium that was safe for children and their families.

We believe that the enormous potential of this interactive medium can only be realised if families know that they are safe and secure online. Therefore, we care very deeply about the issues at stake here and we fully share the goals of this legislation. At AOL everything we do from our products to our communications to our community involvement is aimed at building confidence, reliance and trust in this interactive medium. Most importantly, we have consistently pursued a variety of government, company and industry initiatives in many different countries aimed at achieving the primary goal of this legislation—to build an online environment that is safe and secure for children and their families.

AOL's business has been built by establishing itself as a family oriented service. To date, we have over 20 million members, if you take into account both the AOL and Compuserve brands. We currently provide access to nearly 20 per cent of all people who are on the Internet today. Some 2.5 million children currently use the AOL service, which is more than half of the entire Australian Internet community. The research that we have on hand indicates that the number of children using the Internet as a whole will increase by up to seven times by the year 2002.

AOL is committed to supporting the principles that children should be protected from harmful and illegal content, plus adults should have the right to choose what they see, and that all reasonable endeavours should be made to identify and destroy illegal content and prosecute those responsible for its creation. It is due to this commitment that AOL has become an innovator in developing comprehensive tools such as parental controls, and we are constantly providing member education in order to give consumers the control of what they see at a household level. We have taken a leadership role in government and industry efforts to develop these security standards internationally.

More than 14 years experience with AOL service in many different countries has helped us to identify the most effective ways, we feel, of protecting children. We feel that the most

effective answer lies in a co-regulatory approach with a light framework legislation in combination with self-regulation. AOL is a great supporter of industry standards and self-regulation worldwide and believes that Internet regulation can work only if the industry itself supports it by developing the technical tools and self-imposing regulation.

Based on our experience and strong record, we believe that we have worked out what actually works, and we can sum it up as follows by the three Es—enforcement, empowerment and education. The most effective weapon against illegal content on the Internet is to pursue the originator of the content, enforce the law upon them and prevent them from further breaches. We need to be firm with the enforcement of existing laws on illegal material online, and AOL has consistently cooperated with government and industry bodies and law enforcement agencies to enforce existing criminal statutes. The draft bill, as we are discussing today, is directed at the content providers, the hosts and the Internet service providers, not those responsible for the creation of the content.

The second E is empowerment, and we feel very strongly that we need to empower parents with technology. We need to make it free. We need to make it easy to use. We need to make sure that it is very convenient. We need to provide software tools that are reliable and can be there for the kids even when the parents cannot, and I think that is very important. Currently, 82 per cent of AOL members with families use the AOL parental controls to control their children's online experience. AOL parental controls give parents the option to choose the AOL's preselected material for children in categories such as kids only, which is 12 and under; young teens, 13 to 15; or mature teens, 16 to 17. There is also an 18 plus.

On top of that, parents can also customise their children's access by making their own selections, according to their own moral standards, religion or ethnic beliefs. Children have no access to these parental control tools and, therefore, have no way of altering them without the participation of the parents. This gives parents the choice to determine what their children can and cannot see. The tremendous success we are seeing with the take-up of these parental controls is proof that this method works, if it is free, easy to use and easily accessible.

AOL has also established a volunteer program with thousands of volunteers who safeguard our public communications area on the AOL service. These volunteers are entitled to enforce actions against any inappropriate behaviour. We believe there is no better watchdog than the other millions of AOL members in the AOL community itself. A dedicated AOL team looks after every complaint. We also have an area on AOL called 'neighbourhood watch', whereby members can notify AOL of anything they see that they feel is inappropriate.

Our third point is our education. We need to educate parents on how to use this medium safely and how to use the available content control software tools, but we need to make it simple. We also need to educate our children about smart and safe surfing via educational programs. Our role has gone beyond simply applying these principles to our own service. AOL actively participates in driving Internet education programs, often in conjunction with industry and nonprofit leaders and organisations. We have led industry-wide efforts to

address these issues through successful online summits, through the establishment and leadership of industry organisations and through the creation of self-regulatory schemes.

Our concerns with the proposed legislation are as follows. We feel blocking the Internet at an ISP level really does not work. There are many reasons for this, but it is mainly due to the daily volume of the new Internet content that is available, the Internet's fundamental mechanism of automatically storing and forwarding content to thousands of different places, the encryption of some pornographic material and the ease of changing URLs and content of existing URLs. The bottom line is that the content can only be effectively controlled at its place of origin.

Imposing blocking as a compulsory measure for ISPs has also the unintended consequence of lulling parents into a false sense of security that their children will be safe when they visit the Internet. Parents will not be as vigilant and actively pursue controls available to them, and we feel that parents have this basic right. It also places an unconscionable burden on the provider, who must become the gatekeeper and face crushing liabilities. The result will be that the smaller ISPs may be driven out of the business, and companies otherwise attracted by Australia's efforts to build this sector will be dissuaded from doing business here.

Another concern we have is that the draft also lacks a precise definition of Internet content. We feel it should explicitly exclude private communications, such as email. The 24-hour take down notice period is unrealistic. In just AOL alone, we are getting requests for 2.6 billion URLs each day. So once you add up all of those requests—not just AOL's requests, but those of all Australian companies—that volume in itself is going to be challenging.

The penalties, we feel, are very harsh considering the fact that the burden is heavily on the Internet service provider and not the originator of the content. Our experience is that the best way to achieve the goals of this legislation is to provide incentives to companies that in turn empower parents and families with appropriate safety tools.

We recognise, however, the pressures for the legislation are strong, and we would like to suggest a series of measures that would help achieve the true goals of the legislation. We believe in the implementation of a safe harbour. If Internet service providers offer parental controls or other software that is freely available and effective, we feel they should be considered compliant with the law. In view of the unusually short time allowed for consideration of the substance and details of the bill, and due to the complexity of the subject matter and the pace of innovation in this area, we also submit that the bill should be amended to include provisions for a review of its operations within six to 12 months of its commencement. This would provide a reasonable period to create a record on which a guide for future action and policy could be based.

Thirdly, AOL, as a member of the Internet Industry Association, supports the arguments that Patrick Fair and Peter Coroneos said at their initial meeting with the committee last Tuesday. I think they are also meeting with you later this afternoon. We also strongly support the development of the IIA code of conduct.

Over recent years, Australia has been a world leader in the development of forward looking public policy in developing a strong Internet sector. It has been recognised that a policy environment allowing strong participation in the interactive medium will be a key to job growth and leadership in this global economy.

Protecting children and families online is of paramount importance. However, as important as the goals of this legislation are, Australia cannot afford to relinquish its leadership role by instigating legislation which will, in many ways, be ineffective and unmanageable. At the same time, by approaching this issue in a manner that provides Internet companies with incentives for positive initiatives to ensure a safe and secure online environment, Australia will continue to demonstrate to the world its commitment to a strong, competitive and socially beneficial Internet economy.

We stand ready, willing and most importantly able, based on our past experience, to work with you in an effort to ensure that the interactive medium in Australia is one of which we can all be very proud. We have just distributed some visual material that we have, and I would like Dorothee to take you through some screen shots so you can see how these parental controls can be set by our members and how it is not complicated—it is easy.

Dr Ritz—This morning at various times questions were raised about whether parents themselves can handle the setting of the parental controls, whether those controls are too difficult, how they have to be set to be able to work, and how they can be set to be most effective. I will take you through the system of AOL's parental controls because, as Carol pointed out, we have more than 10 years experience in meeting our members' demands and coming up with what we think is the best and securest system for parental controls.

When you sign up to the AOL system, you are supplied with a disk that you put into your computer. That starts the registration process. In order to register, you need to be older than 18; and, to make sure that our members are older than 18, a credit card is required. So, even before our members are online for the very first time, they are taken through a registration process. During that registration process not only do we take them through the membership agreement but we also tell them about the most important do's and don'ts on the servers and what they have to do to comply with the membership agreement. At that stage for the very first time we also make them aware of the parental control systems and that they are available on AOL.

The first slide I want to present to you is a demonstration of how easy it is, once you are on the AOL system, to set it up. Proof of how easy it is is that 82 per cent of the 17 million members of AOL who have families—and 53 per cent of AOL members have families—use the parental control systems. We think that is a very strong argument that these parental controls, if they are made easy, do work and parents can use them. The first screen shows you the parental controls and how you can set them up.

As to how AOL works, the first person setting up the AOL account owns what we call the master account. Usually that is the father or the mother; at the very least it is a person who is 18-plus who owns a credit card. That person can set up all the different accounts for the family. AOL comes with five screen names. That means I can provide my wife with a screen name and her own pass word; my child can have one with their own password. Every

account is suitable for father, mother and three children, for example. So I am the only person who, as the master account holder of the AOL account, can set the parental controls.

This screen, which is what our members see when they set the parental controls, takes them through the basic steps. It tells them how you can set them up. If you have a child under 12, you have the choice of putting the setting on 'kids only'. If you have a young teen between 13 and 15, with just one click you have the preselection of AOL for young teens. If you have mature teens, you can set it on a mature teens account. Also, you can set '18 plus'.

I will move to the next slide. Once you have the settings and, for example, your child under 12 signs on, he will not get the general AOL screen; he will get what we call the 'kids only' account. He is limited in access to the kids channels; that is, content that AOL has selected as being valuable for children. He has very limited possibilities to chat or send emails. With these functions the child is limited to only a preselected group which has been selected by his parents. The parents can allow the child to chat and receive emails from grandma but not to receive emails from anybody who is not on that list.

I move to the next screen shot. This is a 16-plus account setting. Basically, we consider 16-plus account members capable of surfing, and allowed to surf, the Internet in general because there is a lot of information on the Internet that is very valuable to them. The mature kid, the 16-plus—say it is a 16-year-old boy—can get to the AltaVista search engine, so basically he can enter the front page of the search engine. But if he enters the word 'sex' in the search, this is the screen that he gets. So he cannot get to any screens that refer to sex.

Senator HARRADINE—What about other search engines, like Excite?

Dr Ritz—It is not limited to AltaVista; it is any search engine on the web. So the first point I would make is that the AOL parents have the choice to go with the AOL presetting—and that is what I have taken you through now. If I am a new member, I might say, 'This is all too complicated,' and say my kid is 10, I would take the 'kids only' account. My child might be 11, so I would go with the young teens account and accept the settings that AOL has given for them. But, if parents feel that they want to set different settings or more customise their settings, we give them the choice.

The next screen I have included in the presentation shows you how easy we make this for our members as well. Our members first get information of where they can set customised controls. It is not just for general contents, it is also for chats and message downloading; there are certain web settings for emails and particularly for news groups. If the parents click on any of these buttons, they will be taken to a subscreen which explains more about the area where they want to make the particular settings. Then, in exactly the same easy manner as I outlined before with the general settings, they can set their preferential customised settings for any of those areas. How easy that is I will show you with the next screen, where we set some customised settings for the web.

For customising the web settings, AOL works with a company called The Learning Company. The Learning Company does nothing else but look at and label millions and millions of web sites. Anybody can apply for labelling with The Learning Company, and that company puts them in certain rating schemes.

AOL has a default setting for our members. If they want to customise their web settings, we offer them the settings of the Learning Company. If parents want to go beyond that point and want to choose another setting from any other labelling or filtering company that is on the web, they may do so as well. It takes a little bit more technical knowledge to set the settings, but they are free to choose them. For those that are not that experienced, we help them by providing easy to use, very accessible means of setting particular controls and customising the web experience from their children. By two or three or four clicks down to screens, parents can customise quite a lot—for example, what kinds of settings they want to set for very different age groups and requirements of their children.

CHAIR—Dr Ritz, I have one question of clarification. When the 16-year-old daughter goes onto a site which may not be available to the kids only site, how do you ensure that the person who clicks onto the mature teen site is not the child using the elder child's name?

Dr Ritz—The screen up for Klein Ritz, who is the 10-year-old, is Klein Ritz and he might have the password 'bumby'. Daughter Ritz is 16 and she might choose the password 'Paul' because that is her boyfriend. As long as Klein Ritz is sure that he has his password and daughter Ritz is using her password, there is no way for Klein Ritz to enter daughter Ritz's account.

Senator TIERNEY—Except if they trade passwords.

Dr Ritz—Except if they trade passwords, yes. But once something like that happens the master account holder will get an email that something has changed to the account. If the daughter changes her password settings or certain settings on her account, the master account holder gets an email and it is noticed. I, as the master account holder, can also see what kinds of settings are set with my separate accounts. This information is available only to the master account holder.

CHAIR—But the trick is to make sure that the children do not swap passwords, isn't it?

Dr Ritz—Yes, it is.

Senator TIERNEY—But you cannot control that.

Dr Ritz—If the parent is educated to have a look at the settings, he can—by just one click—have a look and see all the information that he needs.

CHAIR—Thank you.

Dr Ritz—If that is all on the parent control setting, I would like to introduce some other self-control features that we have introduced. We have experience that it is really working well. AOL operates communities, and we have an online community of 17 million members. We feel that community has power in itself. The best policemen or the best watchdog of any community is the community itself, because they can take care of each other. They see their environment, they see what is going on and, as long as they have the possibility to go to a place when they have some concerns, it works fine. So we introduce our members to the AOL neighbourhood watch system.

Neighbourhood watch works in certain ways. On the other hand, we give them on a regular basis an update of what they should be alerted of within the community—for example, that a new virus is going around or certain problems concerning hyperlinks. It is an educational program. At the same time, it is a program set up for the community when they are online, when they see something happening that they think AOL should have a look at and which they do not feel comfortable with. At any time and in any place on the service they have a way to report back to us to tell us what is wrong or what they feel we should have a look at.

CHAIR—Dr Ritz, I am conscious that we all have questions for you. So could you bear that in mind when you are doing your explanation.

Dr Ritz—I will make it brief. On the question of it being easily accessible, we believe parental controls work only when they are very easily accessible. This is the first screen that AOL members get when they go online. I pointed out with the red circles the two areas on that service on the first front screen where they can get to the parental control tools very easily with two clicks. If you click on the member service button on the bottom, it takes you to the next screen, which is the AOL member service area. The member service area is that of our helpers in the call centres who answer all types of questions. As you can see, they answer questions particularly on safety and security. It is an online manual, but they can also ask questions by email and by other means they can contact our member services representatives and ask any questions.

There is one more issue that I want to point out. We have an online service of thousands of volunteers who constantly monitor the service, particularly in the community areas. They go through an online school. We teach them what they have to do, and we give them tools whereby if they see something going on on the service they are allowed to take content off or to take actions against our members. So they are present at all the public communication areas.

With regard to the education of our members when they first get online, AOL runs a program called Quickstart. In the first couple of days—up to 30 days—we present our members with small learning lessons every single day. Those are done in pop-ups, which mean they appear automatically on the screen. It takes them through lessons not only on how to use the service and how to make it valuable but also a lot of content is about safety, security and how to set parental controls. This ensures that we do not miss any members, particularly the new members who are very open to education. This has helped us a lot to increase the success of the parental controls tool.

Everything is about education, so the first step for us is making sure that we educate our members online. I am talking here in particular about the States where America Online is much more progressed than here—we launched only half a year ago. AOL, for example, has worked with the National School Board Association in the US, and they have developed a very successful safe surfing program. One part is a video that goes to all the schools and the second is an online drivers test for parents and children to do. Just like you do your drivers licence, they take you through and you get an online drivers licence, a safe surfing licence, which educates you not only on the safe use of the web but also on how to make your web

use a valuable experience for all different age groups. They are customised for age groups. Thank you.

CHAIR—Thank you, Dr Ritz. Ms Veriga, did you want to add anything to the presentation?

Ms Veriga—No.

CHAIR—Can I ask one question of clarification before we start. I see that with this program you take your education focus very seriously but I am disappointed to see that only 53 per cent of your subscribers are using this program, that is, 53 per cent of the 82 per cent who have children—

Ms Veriga—No, 53 per cent have children and 82 per cent of the people with children are using it.

CHAIR—Okay. I am sorry, that is where the confusion was. Can you give me some idea of the number of families that is?

Ms Veriga—The number of families that is? It is 53 per cent of the 20 million, so a bit over 10 million.

Dr Ritz—And we have about 2.5 million children on the AOL service, which is more than half of the Australian Internet community at the moment.

CHAIR—Okay, thank you.

Senator TIERNEY—Just clarifying that point because you are talking international figures: could you bring the figures back to Australia in terms of what is happening with your service here?

Ms Veriga—We have been launched for only six months. I do not have any figures that I can share with you today, but I can certainly take that on notice and supply them to you. We are just starting to get our numbers all together and to roll out our education programs here.

Senator TIERNEY—You mentioned that in the home the parents have the master control to control different types of material across different levels. Looking through those sheets, I could not see a screen that showed how that worked—that is, how parents can change the access to what is on the screen.

Ms Veriga—This very first screen lists all the screen names that are with that account.

Senator TIERNEY—But how does that change? Does the parent put in a pin number—or what happens? How does that work?

Ms Veriga—The parent signs on through the registration process and gets a password. When the parent signs on with the password they get this screen which has ‘Screen names’

and ‘Passwords’ listed. First of all, you have five screen names to allocate and you allocate them ‘Mary-Jo’ and so on. Then you go into the parental controls and set the control for Mary-Jo depending on her age.

Dr Ritz—Just to clear that up: the master account has to set the subscreen names. There is no way that a child can just go ahead and set up an AOL account. The subaccounts have to be set up through the master account.

Senator TIERNEY—Right. Those categories that you have listed on the first screen—18 plus, mature teen, young teen, kids only—are they commonly used as a standard across the industry or have you just developed them individually?

Ms Veriga—They are the groupings that we use in AOL.

Senator TIERNEY—Do they match what anyone else is doing?

Ms Veriga—Well, no-one to date has these same tools. These are proprietary tools within AOL. But we see it as a good basis for what we could help to bring about in the industry here.

Senator TIERNEY—It would be useful if the industry developed a standard of common categories and levels, because some might have six levels and others might have three levels.

Ms Veriga—Exactly.

Dr Ritz—If I can make one comment: since AOL is a global service with services in very different countries, these tools are designed to work with any rating scheme—that is, what might be considered in one country as illegal and in other countries as not illegal. We provide our members with tools that work with any country regulation and with any preferences of the individual family. So the categorisation becomes not that important in that regard, because it is basically the choice that we make. But if parents prefer to make a different choice by choosing other tools, they can do that as well.

Senator TIERNEY—You mentioned your three Es, one being empowerment. How do you empower parents who are not computer literate at all and who buy these systems for their kids? You said that one of your master mechanisms is through email. But parents have to be able to know and access email and then be able to use it, don’t they?

Ms Veriga—Sure. As soon as someone becomes a member of AOL, they automatically get this. They do not have to buy it; they do not have to download it; it is there. So as soon as they sign on, this is the welcome screen they get. We then run tutorials for new members all the way through which say, ‘This is what you should do. Before you go anywhere you should look at your parental controls.’ I send out a monthly email to all members and I especially communicate a lot with new members in the first 30 days that they are on board. I constantly point out these areas, because we see that as an education process so that they can access it. Obviously, we have to make sure that we are very good at getting that message to them. We are quite heartened that 82 per cent of the people with families are availing themselves of it at the moment.

Senator TIERNEY—So if someone wants to use the mechanism of picking up from email the message that something has changed in their system—the example you gave earlier—how do they figure out how to use the email if they do not know anything about email?

Ms Veriga—As soon as they sign on—they put in their screen name and then they put in their password—they go straight to a screen that looks like the example I am holding up, which says, ‘You have got mail.’ They click on that box, and it will come up. That email is there. They click on the email, and they read it. It is as simple as that. They do not have to know how to do it. It guides people to where they have got to go to see it. As soon as they sign on, that email will be there, so they will see it. Most people want to read their mail when they sign on. The first thing they want to do is to see who has communicated with them.

Senator TIERNEY—It is still assuming a certain level of computer literacy. There are huge numbers of parents out there who do not even want to go near an on switch, let alone even know where the on switch is. A high proportion of the population of this country still will not use an ATM. That has got to be incredibly simple technology, but they will wait in a line for half an hour rather than use an ATM.

Dr Ritz—AOL has 20 million—or 17 million AOL and three million CompuServe—members. Most of the growth is with people who have never used the Internet before. AOL has been successful in the last couple of years, with a growth at the moment of one million members on a global level. It puts in front of people a product that is so simple to use that even my grandmother and my grandfather can use it. And 52 per cent of subscribers who actually put their credit card in today are women. I think that every woman knows that we usually do not have a reputation for being very computer literate—and I have actually worked in the computer business for some years. That is proof that if the product is very, very easy to use, then people can use it.

Senator TIERNEY—You mentioned ‘haven’t used the Internet before’. But surely the key question is whether they have used a computer before, not whether they have used the Internet before.

Dr Ritz—A lot of people are first-time purchasers. A large amount of the AOL uptakes are from people who buy a computer with AOL on it. AOL in many ways is bundled on the computer, so that is the first online service they have an experience with.

Ms Veriga—We have the results of some recent research. We researched the people who were on AOL and about 52 per cent—much, much higher than any other—had only been on the Internet for three months or less. They are seen as the ‘newbies’ to this technology, not as the computer literate. They are the solid families who are really buying the computer because it is replacing the set of encyclopaedias from the fifties. They see that they need to have a computer in the household for their children’s education. A lot of those parents are not computer literate, but this is designed for them as well as for the convenience of people who are computer literate, as it is quick.

Senator TIERNEY—We had people from the state library association before us today, and we had them before us a year ago as well. We note your incredible interest in devising ways of protecting children. What is your view on the libraries' approach, which is that they really do not seem to see any role for putting software technology in? They claim that their method of supervision is people walking around and looking at screens and checking it that way. Do you see any technical reason for which public libraries could not use such screening software as that which you have developed?

Ms Veriga—No, there is no reason they could not use it. But they would need to devote a computer to children's use, because it would be set for all children. It would be tricky, because there are different age levels, to set the age level for that particular user. But certainly in all our focus groups and the research that we have done parents see it as a really important tool, and they want it.

Senator TIERNEY—But, given the pattern of demand in the state libraries, if you had an idea of how many under-10s come in and of the number of computers, could you do a rough configuration of dedication? Would that be possible?

Ms Veriga—Yes, no problem.

Senator TIERNEY—Next time we have them back, we will ask them about that. Thank you.

Senator MARK BISHOP—Ms Veriga, I presume the figures you have used—20 million members, 82 per cent of AOL members with families use printer controls, and 53 per cent of all members have families—are global figures. Could you convert those figures for Australia?

Ms Veriga—I have not got the figures here with me, but I will take it on notice and supply them to you.

Senator MARK BISHOP—Thank you. I have one secondary question, and you might also take it on notice if you cannot answer it off the top of your head. Has the growth in parents accessing the filtering services in Australia been equal to that in the United States?

Ms Veriga—We have really not been launched long enough to establish a benchmark, because six months ago we were just starting out. We certainly have drawn a line in the sand now so that we can measure that as we roll it out. We just need a bit longer.

Senator MARK BISHOP—Are many Australian parents accessing the filter service?

Ms Veriga—Yes, they are.

Senator MARK BISHOP—Is there a significant demand for it?

Ms Veriga—Yes. I need to get you the numbers, but certainly our experience has been that the people who are picking up the AOL software and becoming members are family people, and they are utilising what we have got.

Senator MARK BISHOP—That is interesting. Thank you.

CHAIR—I have one follow-up question on that. Who within AOL makes the decision, for example, on what the ‘kids only’ filter enables them to see? Do you have a bank of people? You talked about The Learning Company. Who are those people, and how do they make the decision on what a ‘kids only’ versus ‘mature teen’ or ‘young teen’ actually sees?

Dr Ritz—To answer your question, the first important thing is to make a distinction between the world of AOL and the Internet, because the majority of the use of an AOL member is within the world of AOL, without going to any Internet web page. So within the world of AOL it is basically our decision as to what we put in front of our members. It is the same as when I decide to have a contract with one new supplier or with another. To the same degree we make our decision on how we do the presettings for the world of AOL.

The Learning Company is an independent US based company that is now owned by AOL but works independently. Requests can come from anybody around the world who either has a web site themselves or thinks that somebody else’s web site is good or bad and should be labelled by The Learning Company. They might go to different labelling companies as well. We know that there are hundreds of different labelling companies. The Learning Company is a very big one, so they label millions and millions. They basically label on demand—either we send them so many months of labelling web sites, or third parties do, or people from the provider do, and then the content receives labelling that can be read with any different filtering system in existence.

CHAIR—I understand that. I was wondering about the skill base of the people. Are they child psychologists? Are they, for example, specialists in early childhood development who look at the kids only material? I am interested to know the skill base of the people who work for The Learning Company and how they make these differentiated materials available.

Dr Ritz—In the kids only channel they do not have web access at all, so that the kids’ only channel is something that works in the AOL environment. With regard to our content in Australia, for example, we work with companies—and I do not really want to name them—like club videos or other companies that provide learning material. It might be governmental, it might be from private organisations. No, we do not have teachers or that kind of authority making the decision, but we work with content partners that are capable of making these decisions for us. If you take the finance channel, we are not online brokers, so we do not provide that information. We work with people who do that. The same with the kids channel: we work with third party content providers who have the expertise to provide us with that content. There are big brand names for this kind of content who have the expertise and provide us with the content.

Ms Veriga—As far as The Learning Company is concerned, I can get you some further information on that.

CHAIR—I would be interested in the skill base.

Senator HARRADINE—Very briefly, because of the time, could you remind me again of the number of members in AOL?

Dr Ritz—Seventeen million.

Senator HARRADINE—In Australia?

Ms Veriga—In Australia, we have only been launched six months. We have over (*figure expunged on resolution by committee*) people who have experienced AOL.

Senator HARRADINE—And the software you have described here, what percentage of families are using that? Do you have that figure?

Ms Veriga—No. I have taken it on notice to provide it. I do not have it here at the moment.

Senator HARRADINE—Not so much Australia, but worldwide.

Ms Veriga—Worldwide, 55 per cent of that 20 million have families and of that 55 per cent, 82 per cent are using the AOL. So I guess that would have to be around eight million or nine million out of the 20 million.

Senator HARRADINE—Does that utilisation of this software indicate that there is concern amongst parents to ensure that their children do not have access to offensive material?

Ms Veriga—I think it has always been the basis that underpins the whole AOL vision and mission statement to empower parents so that they can make sure that their kids are safe and secure but can also have fun. I think it is really important that parents have the satisfaction of knowing that, whether they are in the room or not, they can set up something that lets them feel fairly confident that their children are safe.

Senator HARRADINE—I do not know whether you were here when Mr Marzbani gave his evidence, but he seemed to say his research showed there were only four per cent of families who are concerned.

Ms Veriga—We make a very strong case to educate our members about it. We tell them about it all the time, because we see it both as a very strong marketing point for us and also from an empowerment point of view. In our focus groups and the research that we do with our customers, we tell them about it and we ask, ‘How important is this to you?’ They certainly see that, because it is easy, free and simple, they do not have to be techno-whizzes or download some other software to enable it. Because it is there and they can just click on it, they will use it.

Senator HARRADINE—What sort of complaints do you get from the end users about this software?

Ms Veriga—The parental control software?

Senator HARRADINE—Yes.

Ms Veriga—To date, I am not aware that we have had any complaints about it.

Senator HARRADINE—Do you have complaints that it slows the system down considerably?

Ms Veriga—Because we are actually doing this externally with The Learning Company and setting those groups, it can slow down slightly, but it is not going to impact the user experience that much.

Dr Ritz—What we are doing here is empowering parents and setting the parental controls at the end user level. If parents actively choose to use these controls, they take into consideration that it might slow down the process a bit, but they can actually control how much they want to control and what controls they want to set. The advantage of setting it at the end user level rather than at ISP level is that the amount of filtering is really customised to the real requests of the end users themselves, which narrows down the amount of the total volume of content that has to be filtered enormously.

Senator CALVERT—First of all I think I should declare an interest. I think my family is a client of AOL—I know I get the accounts, and it comes up on my Bankcard every month. I note in your submission you say that the bill should be amended to include a provision for a review of its operation within six months because of the pace of innovation in this area. We have had other evidence this morning that the number of users in Australia has gone from 1.6 million to 3.5 million in 12 months. So things are moving ahead at a rapid pace. That being the case, don't you think it is reasonable that a government should put in place a framework of regulation to try to deal with the pace of innovation, if you like to call it that, for what may happen in the future with online services? Things have changed so much. We have heard from one side about the techniques available to filter and block, but there would also probably be other techniques available to subvert the sorts of things you are trying to do.

Dr Ritz—The answer is that we support those solutions that are the most effective. From the perspective today, empowering the parents or introducing the filtering at the end-user level is the most effective. The argument for that, among all the other reasons why blocking might be difficult at the moment, is one of volume. We heard earlier today that the volume of Internet traffic is doubling every 80 days.

We heard before about Moore's law, which basically says that the whole technology behind that might be doubling in two years and Mr Ramin explained a little about the limitation of even that comparison. Just putting these two numbers together and I can undermine them with some numbers about AOL growth. We put up one million more members every single month. We have a lot of experience with enlarging systems. It is a very different story to take systems that work on a small scale for a hundred thousand members and make them work for millions of members and millions more in traffic.

Upscaling a system is a very difficult process with the acceleration of Internet content that comes with it and the slowness of how we meet the demands. The growth of technology is enormous. In the next couple of years there will be no way to fulfil what we actually have—just by the increase in traffic coming up, there is no way. It is really like trying to

empty an ocean with two bare hands if you try to filter at the ISP level with the volume of content that you have out there, and every single day there is new content—billions of pages.

Senator LUNDY—The mention of parental control and end-user control gets raised in a peripheral way in the miscellaneous section of the bill before us. Have you been approached by either the National Office of Information Economy or the minister's office for your views and experience with respect to the family online service for the purposes of consultation and preparation of this bill?

Dr Ritz—No.

Senator LUNDY—Have you been approached by anyone officially from government to explore your experience with this particular service?

Dr Ritz—No.

Senator LUNDY—So they have not consulted with you in any way?

Dr Ritz—Not to draft the bill, no.

Senator LUNDY—In the six months that you have been set up in Australia—and I ask this question in the context of your international experience—have you participated in these types of debates as a company, as AOL, in international jurisdictions?

Dr Ritz—As you have probably noticed I am German. My personal experience is that I have been quite active in the development at the industry level not only of the German legislation but also in the drafting of the green papers in Europe and their legislative process.

Senator LUNDY—Are you familiar with any other jurisdiction that is contemplating a regulatory framework in the way that is presented in the bill before us?

Dr Ritz—The very newness of what is being introduced here is the blocking. I am not aware of, and I have not seen any, Western legislation that has gone down the path of trying to block content.

Senator LUNDY—Are you in a position to tell us whether, in those efforts not to block content, that includes both packet-level and application-level blocking? Or has it just not been contemplated in a legislative debate elsewhere?

Dr Ritz—Yes. For example, if you look at the European legislation—and that is the only one that I can talk about with experience—they have provisions where ISPs have to provide technical tools for the end users to control their Internet access. That is something that has been considered and is a successful way. At the same time if you look at what the EU is doing at the moment, the latest action plan they have put out is to do with education. So they are supplementing this notion of providing the Internet users with a tool and there is now a focus on education—to actually teach people, the end users, how to use these tools.

Senator LUNDY—Did a debate occur around the various merits of blocking as an option for controlling content in the EU forum?

Dr Ritz—Yes. This debate is not new; the same options have been discussed and arguments have been made for that. But all of them came to the conclusion that, for the arguments that we have heard and probably will hear through the day, it just does not work.

Senator MARK BISHOP—Dr Ritz, did I understand you to say that EU law or German law does mandate blocking at the end-user level or that it does not?

Dr Ritz—It does not. Europe does not have legislation on it—but it has a green paper, I think it is called, on it. What they recommend is control and to provide the end users with the technology to control access by children. That is in the German legislation as well.

Senator MARK BISHOP—So it is filtering, not blocking?

Dr Ritz—It is filtering at a level, yes, if you want to define it that way.

Senator LUNDY—Is there any filtering at ISP level?

Dr Ritz—No. For example, the German legislation excludes ISPs explicitly from the responsibility for content on the Internet.

CHAIR—Thank you very much, Dr Ritz and Ms Veriga, for your evidence.

Is it the wish of the committee that AOL's slides be incorporated in the transcript of evidence? There being no objection, it is so ordered.

The slides read as follows -

[3.09 p.m.]

PATTEN, Ms Fiona Heather, President, Eros Foundation

SWAN, Mr Robert James, Publisher, Eros Foundation

CHAIR—Welcome. The committee prefers all evidence to be given in public, but you may at any time request that your evidence or any part of your evidence or an answer to a question be made in private and we will consider that request. I understand that you have not had an opportunity to prepare a submission at this stage, so I will invite you to make an opening statement and we will then move to questions. We have received your letter from last week.

Ms Patten—I understand from the media in particular that witnesses have been very expert in explaining a lot of the technical systems. We certainly do not feel qualified to go into that area. In the short time that we have had to read the legislation, we have found it very inconsistent with the classification of other mediums and other areas. It is inconsistent with the legislation in every state in Australia, and we believe it is possibly constitutionally questionable. I suppose in some areas our industry is in favour of the legislation because we feel that it is like putting a cloud before a bomber—we do not feel that it will in many ways inhibit a lot of people from advancing with adult material on the Internet.

Possibly where we lose is that some of the self-regulation that the industry was heading towards will no longer be a priority or will even be necessary. Sadly, things like the depiction of gang rape will be allowed and will be able to be viewed by children, but the depiction of consenting sex by adults will not be allowed to be viewed by adults. Those are the main points that we would like to bring up.

The legislation is demonstrably inconsistent with regulation imposed on other forms of media. For instance, how are you going to use film classification to classify the Internet when the majority of material currently on the net is the written word or is still images? Film classification was designed for moving images and for the impact that that type of imagery and that type of media had on a person.

Category 1 and category 2 publications will be prohibited and banned on the Internet—that is, not restricted to adults only but totally prohibited. Category 1 material is legally available in newsagents in every state in Australia except Queensland, so material that is available in a newsagent will be banned on the Internet. It does not make any sense. I will hand over to Robbie for some input.

Mr Swan—This proposed legislation is not consistent with any state or territory censorship legislation in other forms of media. X-rated videos or X-rated material can be legally viewed or purchased in any state in Australia—I think that is something that the minister has forgotten. It is not allowed for sale in the states, but you can purchase it from there. This legislation makes the purchasing of material from other states illegal, which we think is not consistent and needs to be looked at. Images of a man with an erection is a category 1 image in publications these days. You can buy them through newsagents—most newsagents in Australia will have images of that. If you put that onto a film or a moving

image it becomes X-rated. I think that this crossing over has not been understood in this legislation.

Legislation exists to prohibit illegal material such as child sexual abuse, bomb making recipes and whatnot. It is already policed through the Customs Act, through the Crimes Act and through the Classification (Publications, Films and Computer Games) Act. For any practical reasons this extra layer of legislation is unnecessary—except for political reasons—and duplicates legislation that already exists.

Ms Patten—We also wonder how it affects legislation. We have only really been privy to some of the second reading speeches, and we have had a confusing look at the legislation which seems to contradict the second reading speeches. The minister speaks about all X-rated material being refused and being prohibited, all refused classification material being prohibited and R-rated material being restricted. Then, when you read the legislation, it goes on to look at computer games which are classified under very different classifications from film. So I am now starting to understand that there will be different levels. Then the legislation goes on to say that material that is not a film will be classified under the classification act. If that is the case, there has been no mention of where category 1 and category 2 publications will sit. I would argue that a still image on a screen of two people or an erection would be a publication. It would be much more likely to mirror a publication than it would mirror a moving image or a film.

This legislation, we believe, unnecessarily discriminates against Australia's growing adult industry. The Eros Foundation, which is the national industry organisation, represents about 400 adult trader businesses. It has become a very consolidated industry with an annual turnover of about \$1.3 billion. This legislation will prohibit these legal businesses from advertising on the Internet, from using the Internet as any other legal business can use it. Many of our members see that e-commerce—particularly for X-rated films, for instance—is the way that they will be going in the way that they will be able to download and provide information for their customers easily. We have spent millions of dollars literally on developing this business and setting up e-commerce facilities to open ourselves up to the world adult market; now we will be forced to operate outside Australia. Our members will have to pay companies overseas to develop content, to host their sites and, of course, to provide the administration, which will cost Australia millions. It also means that our industry will cease working towards a self-regulatory model because we will be prohibited. So there is no point us trying to work out age verification because we do not have to. It is against the law for us to put the material up, regardless of whether we do age verification or not.

We, as an industry, do not want children accessing our material. Adult shops do not allow children in, and we would see our adult sites as being no different. People in this industry are parents; they have the same concerns as every Australian. They feel that they are responsible, and probably responsibility is where a lot of people have been going with this—that is, that it is up to the individual to be responsible. Our sites would like to be responsible but, unfortunately, we are going to be prohibited, moved offshore and not regulated or controlled at all. We will just be prohibited. In fact, if we do that, we are not even going to get charged. It will be the ISP that allows us to be seen that will be charged—the company in Venezuela that Australian Adult Products has set up. Big deal! It will be a local ISP that will be responsible for us.

Mr Swan—Bearing in mind that the last time we gave evidence to this committee—Senator Tierney and Senator Harradine will be well aware of this—

Ms Patten—You scared us off.

Mr Swan—We were hit with two contempt of parliament charges before we started talking.

Senator TIERNEY—I was wondering why we had not seen you.

Mr Swan—We thought it was a bit like being intimidated, which was, I think, against the rules anyway. Having said that, this is not a threat in any way—I would not like senators to take this as a threat—but I think section 51 of the Constitution does outline the powers of the Commonwealth in respect of the acquisition of property on just terms. We have some early legal advice that suggests that, for our members, who have already spent a lot of money in setting up Internet sites, this legislation may be viewed as taking away the goodwill, or the government may be acquiring the goodwill of these companies or, in some sense, even some of the material possessions and the hardware that these companies have set up. The Constitution says that governments must settle these things on just terms. I think that compensation is something that really has not been mentioned in this debate to this point. I think that the government needs to get a little bit of legal advice about that.

The Constitution also requires the government to allow the free trade, across state borders, of goods that are legal in one jurisdiction to another. As we all know, that is how the X-rated video mail-order system works at the moment. It is not illegal to sell it in the states, even though there is a big black market in all the states. All senators here would know about that. There is even a black market in Hobart, Senator Harradine, in X-rated videos. What we are saying is that there may be some constitutional aspects to this. If you can sell X-rated videos in the ACT and Northern Territory and an X-rated video duplicator wants to set up an ISP site in the building next door, there may be some sorts of constraints on trade and stuff like that going on. I think the government should have a look at that before going down the track. The adult industry is not shy about taking High Court actions either, as you well know. There was the case of Capital Duplicators back in 1991 where we won a case against the ACT government for imposing an illegal tax on the industry.

Ms Patten—Talking about money, this goes to: who is going to pay? Senators would be aware that currently the Classification (Publications, Films and Computer Games) Charges Bill 1998 is before the Senate. That is looking at changing the classification fees to a tax. I note that in this legislation there is a very strong point saying that any classification done by the OFLC will be in no way regarded as a tax. My feelings are that you will need to immediately change the Classification (Publications, Films and Computer Games) Charges Bill 1998 to exempt these services not being taxed under the proposed legislation.

Currently, even on our user-pays system—which the OFLC is trying meagrely to exist on—it costs about \$800 to classify a film. I do not know how many Internet sites you are expecting to be classified, but I can imagine that it will go into the thousands. So this will be a considerable budget element for the ABA to be aware of.

Again, the ABA is being asked to use film classifications and guidelines to classify still images and the written word. The classification process is very subtle and difficult in many cases anyway. Trying to decide between a MA-rated film and a R-rated film is extremely difficult. In the guidelines it goes down to one word, as to whether sex is ‘realistically’ implied or ‘discreetly’ implied. The ABA will be able to make an instant decision there. The same with R and X material. They will be able to make an instant decision on that. Then it will go off for classification.

In regard to MA-rated and R-rated material, I would have thought that is the most important line to be drawn, because you are talking about what should be available for children to view and what should be available for only adults to view. Even if the ABA thinks, ‘That looks dodgy, I think that will be R,’ that material is not restricted until it has gone to the OFLC for classification. Currently the OFLC is taking four to six weeks to classify. With the fluidity of this medium, that site or certainly that address will be long gone.

There is also the issue about offensive material. We keep reading about offensive material being knocked off. Unfortunately, I have not been able to find a definition of ‘offensive’. I presume the ABA will be working on this definition. I hope it is a very good direct definition of what is offensive. I believe R-rated material is already restricted because it could be considered offensive to a reasonable adult.

Mr Swan—We believe this proposed legislation is demonstrably not in line with community standards. This goes to the nub of this whole matter. It does not take into account either the proven causes of sexual abuse or offensive behaviour. We recently commissioned a Roy Morgan poll, which showed that 72 per cent of people in Australia who were adults supported the sale of X-rated material in their states, all around Australia. That is consistent with the poll that *60 Minutes* did on whether X-rated material should be available for sale in Australia. They ended up getting 69 per cent support. I think the *Sunday* program got a similar response recently on their poll.

This legislation is being enacted to take care of children. Children are being commented on all the time—the safety of children, not offending children, not offending adults and all that sort of stuff. I would like to make a point that, according to the *Paedophile and sex offender index*, the largest organised paedophile group in this country is priests and clergy, Roman Catholic clergy. They represent more convicted paedophiles in this country than any other organised group. Since this book was published about three years ago, I have a list here of about another 60 priests and church clergy who have been convicted as well. If we are looking at groups of people who have problems with sexuality and who are likely to be seriously disturbed, it ain’t coming from our industry. There are no prostitutes and there are no pornographers in that book; it is in this other area. I think the committee needs to advise the government—let’s get real—about where the real harm is coming from out of the media in this country, and it ain’t coming from sexually explicit adult non-violent material.

Racism on the net is going to be a big issue, which is not being addressed by this bill at all. Most racist sites can only be classified at the highest level, an M classification, because there is no explicit imagery on them. Hate speeches get an M rating. What is going on there? Again, I think this is another reason that these film classifications are no good here. We need

to adopt a whole new set of classification guidelines for this bill which represent unrestricted, restricted and refused. Just three simple classifications: unrestricted, so that anyone can see it; restricted, so that only adults can see it because it might be offensive; and refused, because it is really out of the court altogether, and that includes paedophilia and stuff like that.

Ms Patten—We would like to see those classifications eventually move across all mediums so that you had one standardised classification system and one standardised set of guidelines for all different types of medium. Our censorship legislation was introduced hundreds of years ago and we have slowly added to it. Because of the merging that this technology provides, we need to look at that and we need to merge our results and the way that we address the classification of media in the same way.

As I mentioned earlier, a movie like *The Accused*, with Jodie Foster, shows a very, very violent gang rape scene. Sure, it won an Oscar, but is that the type of material we consider acceptable for young people to view when we are going to ban sexually explicit or adult material? We are not talking violent material or paedophile material; we are talking about two adults having consenting sex and we want to ban adults from seeing that. So we are banning that from restricted sites, yet allowing rape.

The other areas we think also need to be looked at are art, literature and education. Look at the art of Robert Maplethorpe. His work would be category 1. It would be a restricted publication. It would be something for adults to go and see. It would be banned on the Internet under this proposed legislation.

Mr Swan—At the moment, the classification act itself and the previous act that the Commonwealth government ran off, the ACT Classification of Publications Ordinance 1983, have all put caveats on genuine bona fide erotic art, sex education or adult education and literary works. They have all had a caveat wrapped around them which put them away from the classification of entertainment and said, ‘You have to treat this differently.’ We do not see that in this current legislation, and we believe that should be in there.

CHAIR—Thank you for your introductory remarks. At the beginning of your presentation, Ms Patten, you talked about there being an appropriate opportunity for ISPs to develop codes of practice. A year ago we had evidence from Mr Peter Coroneos, who told the committee that they were then on the final draft of their code. They have been working on it since 1995. We heard in evidence just a few days ago that they are still working on that. They are still on the final draft and that it is very dynamic. How long do you think Australia should wait for a code of practice from that association?

Ms Patten—I thought that the code of practice had been put into the ABA and it was the government that had made changes to it. We put in a proposed code of practice in 1996 to the ABA and we never heard anything from them, never heard anything about it. In that code we said, ‘If material is restricted to adults in any other medium, it should be restricted to adults on the net and if it is legal in any other medium it should be legal on the net.’ I thought we had sent our codes to the government and we were waiting for them to come back.

CHAIR—No, I was not referring to your particular code; I was referring to the principle of ISPs having the opportunity to develop their own voluntary code of practice, which the industry association has already said would be purely voluntary in any case. I just wanted to pick up that point.

Ms Patten—I did not realise that I had made that point. I do not know. I am certainly disappointed that ISPs have not set it up. We as an industry have. We as content providers have.

Senator HARRADINE—I want to follow that up to get it clear. Is your policy that if X-rated material is restricted in any other medium it should then be restricted on the net and if it is not then it should not be?

Ms Patten—Then it should be restricted, I agree. That is definitely our policy.

Senator HARRADINE—Sorry. Just so we have it very clear, could you describe your policy again please.

Ms Patten—Our policy is that this material should be restricted. I am not saying at this time that every single adult site in Australia has adopted that policy.

Senator HARRADINE—No. Could you please repeat what you said to the chair.

Ms Patten—Our policy is that if the material is restricted in another format if it is for adults only then it should be restricted on the Internet for adults only.

Mr Swan—It is up to our industry to develop ways to restrict it.

Senator HARRADINE—How do you respond then to the provisions of the act relating to narrowcasting? You cannot have the material on narrowcasting. So, under your own policy, it ought not be permitted on the net.

Ms Patten—Narrowcasting is not our policy; that was yours. We did not recommend that non-violent erotic material be banned from narrowcasting. We gave evidence saying completely the opposite. We did not give evidence at the committee, but we put in a submission to that effect.

Senator HARRADINE—But the fact of the matter is that it is restricted and not permitted on narrowcasting.

Ms Patten—Yes.

Senator HARRADINE—And, in accordance with your statement of policy, as you have just described it to the chair—

Ms Patten—Sorry, Senator. I now understand what you are saying.

Senator HARRADINE—Matching it with that, then clearly it ought not be on the net.

Ms Patten—That is if you consider the Internet a narrowcast. You are saying that by using the Internet to provide this service this is a narrowcast. I would argue it is a broadcast.

Senator HARRADINE—No. You said that if it is restricted on any medium it should be restricted on the net. I am just trying to get the logic of the situation.

Ms Patten—I will be very clear about this now. If a film or a video is restricted—and that would be X-rated and R-rated material—to adults only, we believe that material that is X rated and R rated should be restricted to adults only on Internet services. If it is a category 1 or category 2 publication, which again is restricted to adults only in magazines and in newsagents and in adult stores, then it should be restricted to adults only on the Internet.

Senator HARRADINE—I am sorry, Madam Chair. I will have a look at the *Hansard* when it comes out as to the response to you.

Senator LUNDY—Madam Chair, I think it is a question of interpretation. I certainly understood what the witnesses were intending to say.

CHAIR—We will be grateful for a clarification if it is necessary.

Senator MARK BISHOP—Perhaps you could provide your policy in writing.

Ms Patten—I have it here. We will certainly give you an outline of the points. I think a problem is that people do not understand that there are about four different systems of classification for different mediums and all of a sudden we have tried to dump them all into R-rated material or X-rated material. There is no such thing as an R-rated magazine. There is no such thing as an X-rated magazine. I have heard senators and ministers talking about R-rated publications. There is no such thing in this country, and I think that that is where a lot of the confusion lies.

CHAIR—I have one other question for Mr Swan before I hand over to my colleagues. It relates to a comment you made about the criminal law being able to pick up some of the areas of difficulty, which your evidence today has defined and other witnesses have also defined. Are you able to give us any indication from your files of people who have been successfully convicted of putting offensive material on the net?

Mr Swan—Yes, Senator. We operate a pretty dynamic media clip service and information service where we scan pretty broadly. I could not provide it for you today, but I certainly could provide you with a list of all those prosecutions and convictions of people who have been convicted of computer offences and online offences. I could do that.

CHAIR—We have had evidence along the lines of your evidence, but we have also had it suggested to us that it is in fact very, very difficult to successfully prosecute. So, if you are able to provide us with some examples, they would be very useful.

Ms Patten—We certainly had a case in the ACT where a gentleman pleaded guilty to the crime. There are two that come to mind.

Senator MARK BISHOP—At the outset, Ms Patten, you said words to the effect that the bill, in its current form, was going to be ineffective or would be ineffectual and hence you would support its passage. I take it that that was somewhat tongue in cheek, but do you support any provision of the bill at all?

Ms Patten—Yes. I probably support R-rated video material being restricted through age verification, but I do not think you can use the R-rated video classification to judge the written word or computer games or still images. It either needs to broaden out the definition for R-rated film classification, which I think would work to the detriment of classifying films, or needs to look at a different system of classifying still images, the written word and what currently exists.

The moving image is pretty rare on the Internet at the moment. It is not easy to do. The vast majority of adult material out there is pictures that people have cut out of a magazine, scanned and done some, for want of a better word, dirty writing on the side. That is much easier. I think that should be classified under publications. As I said, yes, I support adult material being restricted from children, but why ban X-rated, category 1 and category 2 material that is legal throughout Australia?

Senator MARK BISHOP—Do you believe that, if the bill goes through in substantially its current form, it will have any effect at all?

Ms Patten—No, not really. It certainly will have some people having to move their sites on a more regular basis. There will be added costs to that. The ones that are operating on .com.au will probably move onto a server that provides offshore. There will be some initial problems with it. Unfortunately, the Australians who are working on the sites will be out of jobs but, as far as an Australian getting access to adult material, getting access to an adult site and even getting access to an Australian adult site, I do not see that changing substantially with this legislation.

Senator MARK BISHOP—So it will have some cost impact in the short term but overall will it have minimal impact and minimal effect?

Ms Patten—Minimal effect, yes. I should not underplay the impact of the fact that you will no longer be able to set up or work with a local ISP, that you will have to work offshore. That will certainly have some financial impacts but, as far as getting the material up and getting access to the world market, it would be minimal.

Mr Swan—Senator, as an industry association, we have been working since 1992 to round up what was a pretty maverick sex industry in Australia before 1992 into one solid group. The Motor Trades Association looks after used car dealers and the Pharmacy Guild looks after chemists. We do the same thing with adult traders. Basically we have 400 trader members, which represent about 70 per cent of the sex industry in Australia, and we are saying to them, 'You run by this thing.'

Two or three months ago, one of our members in Sydney ended up having a tape that was refused classification on his shelf. We walked into the shop, we saw it and we said, 'Get it off there. An Eros member does not sell material like that. We're giving you a warning.'

We went back the next day and it was back up there so we wrote him a letter and said, 'You're out of the organisation,' and biffed him straightaway and went to the police. This bill is stopping us from having the ability to say to our members, 'You're doing the wrong thing,' and to have other members ferret them out. The sex industry itself is its own best police force.

Senator TIERNEY—I am intrigued by your evidence this afternoon that the Eros Foundation has become such a believer in censorship, particularly when we compare it with this morning's evidence from the library association, which seems to want open slather. Your own submission says at point 5.5:

. . . it is Eros' view that only the worst case material (i.e. child pornography, bestiality, sexual violence in any form, "how to" instructions on bomb making and other terrorist type activities) should be banned from online services.

If that is your belief, what type of legislative provisions should the federal government put in place, in your view, to make sure that what you wish there comes about? You might like to throw in R for people under 18 in those restrictions as well, which you yourself have mentioned.

Ms Patten—Senator, I wish that I had had notice of this question because I would have loved to have put my wish list down on how I would like to see this legislation. I believe that anything that is refused classification in other formats should not be legal to produce as content on the Internet—if it has been refused as a publication or refused as a film. So that does include more than just bestiality or child pornography. It does include sexual violence in many areas, sexualised violence or degrading or demeaning behaviour under some new classifications that will be coming through.

I must say that how we would do that is something we would need some thought on, but I certainly believe that that would be much more easy to do. Considering that 99 per cent of the adult material that is out there is classifiable, to then weed out the one per cent that is not and was refused classification and should not be there would be a lot easier than trying to weed out the difference between an R-rated film and an X-rated image. You would have to get the protractor out in some of those instances, particularly with the male images.

Senator TIERNEY—In your submission at point 6, you are talking about a particular type of online service that describes the sorts of scenarios that clients enjoy participating in, predominantly lawyers, bureaucrats and politicians. Is that just a cheap shot, or do you have some statistical backing?

Ms Patten—No, we do not have any statistics on it. Unfortunately, clients are very difficult to survey, but anecdotally that actually is the case. Anecdotally we will be told—and I did not think to bring in witnesses for this—that it is very often people who have great responsibility and who have a certain amount of power who want to relinquish that in some activities.

Senator TIERNEY—Even though that is five per cent of the population, but you do not have any statistics for it, do you?

Ms Patten—No, unfortunately. I wish I did.

Senator LUNDY—We heard evidence from the Australian Computer Society that their position with respect to the level of censorship of the web goes as follows, and I am quoting from the broad principles as established by the Australian Computer Society, Community Affairs Board, Economic Legal and Social Implications Committee. They say:

Any regulation of the internet should be no stronger than that of analogous media. For example, in relation to the Web, production and distribution of books, and in relation to e-mail, the writing of letters and use of the mail system.

My interpretation of evidence you gave earlier was that in fact you concur with the Computer Society's policy—that is, you see web content as being analogous to books or the publication of written and visual material. Can you clarify that point for the benefit of the committee?

Ms Patten—Yes, we do concur with that. If a publication is legally available to adults in its paper form in a newsagent, then it should be legally available to adults on the Internet. We do concur with that. We accept, though, that the mediums are merging. It is happening now, and we are in the middle of this quite exciting time. At that point, you cannot just pick them off and say, 'Okay, now we are going to censor online services,' ignoring the existing levels of classification for other mediums. It is actually time to rope them all in together, and I do not think that legislation does that effectively.

Mr Swan—I think Australia has a great chance here to enact world's best policy on standards on the Internet. This is something that we were hoping for in setting up the Eros Foundation in Japan recently and in South Africa and New Zealand. We are trying to export our standards to the rest of the world. Japan has some horrific imagery online that is posted by ISPs within Japan. Through a couple of women producers of erotica in Tokyo, who are our equivalents over there, we are trying to change the Japanese standards and have these women go to the Japanese government and say, 'This is not acceptable. We want the Australian classification system.'

In America, our counterparts who run the Free Speech Coalition have already said to us that they would dearly love Australia's classification system rather than having to rely on the first amendment all the time, because they would know where they stand then. It is a different system so it probably would not work, but it just goes to show that Australia does have a great opportunity to influence governments around the world with this bill, and I think we are about to lose it because other democracies are not going to accept the banning of adult erotica, of X-rated material.

Senator LUNDY—Does your organisation have an involvement in discussions or any of these overseas forums looking at developing international standards?

Ms Patten—Certainly not as much as we would like. Unfortunately, in a lot of these situations, the adult industry has been excluded from these discussions when we are the ones that are being discussed. All too often, it seems to be left to other people and the other organisations that have set up meetings. But the adult industry ran the appeal case on the

child protection act in the United States. We have certainly had contact with our American counterparts in that circumstance.

Mr Swan—On our web site—eros.com.au—there are 2,000 or 3,000 hits a day, and half of those come from people in the industry and in government overseas asking us questions about our system here. It is an easy point of entry for people overseas to find out about Australia's classification system rather than going through the OFLC site, which is a little convoluted.

Senator LUNDY—With respect to your own self-regulation, what do you encourage your members to do online to assist in protecting minors from exposure to that material?

Ms Patten—Currently, all sites have entry pages with plenty of warning and plenty of options to go somewhere else from that site. All sites also provide access to Net Nanny sites or filtering sites and recommend that anyone with children download some filtering devices.

We are moving to age verification, and a number of our sites have already set that up. It has only been probably in the last six months that we have actually had secure sites in Australia, so we have only just been able to do things like put our credit card over the Internet. They are moving in that direction but, as I said, we have only had a few months to develop those sorts of verifications and controls. But they are happening, and they are happening very quickly.

Senator LUNDY—I was actually going to ask for your views on that. We have heard from a number of witnesses now that this is a trend, that this sort of credit card barrier is coming in place. Do you have any information about the percentage of your members who have an online presence who have tangible age related barriers? I would say that a credit card access point could be construed as being an age related barrier.

Ms Patten—All we have is being able to compare our American counterparts with our Australian counterparts. Our American counterparts are reporting that their American customers are much happier about providing credit card information over the net. We are finding that resistance in Australia, but I understand that it is improving. A lot of them have set up closed membership types of systems, which is purely to make money. Certainly it stops children from going in, but it means that they can charge for the services they are putting online.

What our content providers are saying is that, for the last couple of years, there has been no money to be made on the Internet for them, that people are not willing to spend through their credit card on the Internet. In the last six months, we are starting to see a change there. We are starting to see people feeling more confident and more comfortable with e-commerce, and with that goes the ability to restrict using that. Most of our members are coming back to using a credit card or a centralised adult check as the preferred option, and they are all moving that way. Without this legislation, that is where they would be going. With this legislation, there is no need because it is illegal for them to be there any way.

Senator LUNDY—A previous witness from Young Media Australia told us that, having lost government funding in support of an initiative aimed at cybersafety and protecting

children from content, they raised the notion of being forced to look towards the private sector and philanthropic sources of funding to support community based initiatives to help educate parents. Is the Eros Foundation the sort of organisation that would contemplate contributing to community initiatives such as that?

Ms Patten—Where we could. The Eros Foundation is not a hugely funded organisation; we do not have a lot of money. But I believe that our industry would be very much in favour of that. Most of them do not want minors on their sites; they take up time, they take up space and they are not going to spend money there. They would certainly be positive about things like that.

It seems to me: put the computer in the family room. Then you will know whether or not your children are accessing Eros member sites. Watch what they are doing in the same way you watch them in connection with your videos and magazines. Use the same controls as we use every day.

Senator TIERNEY—But what if the parents are working, say, from 3.30 and not getting home until six at night?

Ms Patten—I must say that I can tell exactly what Robbie has looked at on the Internet. I just go to history and I see every single site that he has visited.

Senator TIERNEY—That is assuming a level of computer competency that half the population do not have though.

Ms Patten—Yes, and I think that is the main issue. It is about going back to the 1970s where we started up big sex education campaigns in the schools, with parents going there and learning as much as their children were learning. We probably need to go back to a similar system where parents are informed about this, where they are given access to systems that work.

Kidsnet and things like that seem like great systems where you can have your own net explorer and you can go off and search the net how you please but you have your Kidsnet there, and that is what they access 24 hours a day. They go to that site and they access material from there. I am not technical so I cannot even pretend to start talking about options here. I am sure that there have been many experts who have pointed out excellent options and excellent ways to protect children, and to inform parents about how to do that.

CHAIR—I am pleased to hear that you are not checking on Robbie's Internet access.

Ms Patten—Oh, but I am.

Senator HARRADINE—I think Mr Swan raised the issue of section 51 and the question of compensation on just terms.

Ms Patten—Yes.

Senator HARRADINE—Why did you do that? Do you feel that there will be a substantial loss to the industry if this legislation goes through?

Mr Swan—I could not quantify exactly what. Your old sparring partner John Lark originally set up a site called 'Planet Sex' a few years ago. It is still going; I do not know how successful it is. But I know that in Australia there are a number of adult sites. I do not know how many; probably a couple of hundred at least.

Ms Patten—Over a thousand.

Mr Swan—There would be a couple of hundred Eros members associated. They would only have to spend \$1,000 each in setting their site up and there is a fairly decent amount of money being spent. What I was saying was that they may have some rights. Again, I am not threatening the committee; do not mistake me. I am just saying that they may have some rights under the Constitution to a fair and just compensation if they feel that the government has taken away their goodwill by banning X-rated material on the Internet that previously was legal.

Senator HARRADINE—So you are talking big money.

Mr Swan—I do not know whether I am. It is not as profitable as, say, the X-rated video industry or the category 1 and category 2 book and magazine industry because it is a new and emerging one. But even if they have spent \$10 and the government unfairly pulls the rug from under them I would have thought that they would have some compensation for that \$10. But I could not put a figure on it; I would not know.

Senator HARRADINE—Which company is at the point of establishing a major web site and getting into this business? Are you directly involved in any such company? Can you tell the committee just how it is going and, with the convergence of technologies, what are the possibilities?

Ms Patten—I am sure the senators will not be pleased to hear this but, with the new technologies, an industry of people developing Australian product has started to be created. For example, take X-rated videos. You buy the rights to sell an X-rated video in Australia and you spend \$15,000, or something, on those rights to distribute in Australia. But you cannot buy the electronic rights to distribute an American X-rated video in Australia because they are going to do it from America. So, in those areas, the Australian industry is starting to develop its own product and is starting to look at the material that it can sell in its own right in Australia and then back to the rest of the world.

But, getting back to your question, there is a Western Australian company that I understand is in the process of going public. It is a very large retail company that will be moving a significant amount of its business onto online, or was planning to move a significant amount of its business onto online. It would probably become one of the largest adult retailers online certainly in Australia but probably in the Southern Hemisphere.

Mr Swan—It is a public float.

Ms Patten—But there would be half a dozen companies who are looking at spending millions of dollars moving into online services as they see the convergence.

Senator HARRADINE—Would they see the interactive nature of the Internet as being a key in the development of products or services?

Ms Patten—Certainly some would, particularly the services side of the adult industry where you would be looking at brothels or even sort of live chat lines. There you would have this ability to not only talk to someone but see them when you spoke to them or play out a sort of a fantasy and be able to make eye contact with that person. So, yes, there would be movement. How does this bill affect them? I do not know.

Mr Swan—That is already in operation at the moment. There already are a couple of Australian sites which basically run a—

Senator HARRADINE—They are pretty rudimentary at the moment though. But, of course, with the technology being such that it is, you will be able to get it in virtual reality within 12 or 18 months.

Ms Patten—Yes.

Mr Swan—Yes, we think about that time frame. But this is run as a cyber brothel. You have a man or a woman who is in a brothel basically. This is okay, isn't it? I just do not want to get hit with another contempt charge. You dial up the number using an online link, and you can basically have a cyber sexual relationship with the sex worker. Many people in the industry have been asking under what classification do these people come. But they are the brothels of the future. You could not get safer sex, you would have to say that.

Ms Patten—I presume this legislation does not really address those future areas.

Mr Swan—I think it does.

Ms Patten—Except that you cannot classify that because it is live and because it is so fluid. It changes from day to day. They could be talking about the weather one day and other things the next.

Mr Swan—But they are being run from a site.

Ms Patten—I don't know.

Senator HARRADINE—With the convergence of technology, the videos that are now only sold in the territories—

Ms Patten—Only legally sold.

Senator HARRADINE—And to the states via mail, you are most likely to have a situation where they will be able to be accessed through the web site.

Ms Patten—Yes. American sites are already doing that, Senator. We are already seeing that, and that certainly is the way. I do not know whether that will stop the illegal sale of X-rated videos in the states. You already have X-rated videos being sold in—

Senator HARRADINE—But this would vastly expand the X-rated video market, would it not?

Mr Swan—No.

Ms Patten—Initially the American market; initially the Americans will have the edge on us. With this legislation, the Americans will continue to have the edge on us. They will be able to use this technology and this legislation to their advantage.

Senator HARRADINE—You cannot get copyright on the online stuff, can you?

Ms Patten—Not on all of it, no, but that is where they are starting to move. That is why we are seeing films like *Buffy Down Under* and the like being developed.

Mr Swan—But there is only a certain number of adults who want to buy sexually explicit material. We have already reached that peak. The Morgan poll which we did, which we will leave for you, shows that 25 per cent of all respondents to the poll had watched an X-rated video in the last 12 months. Now, 25 per cent of Australian adults is 2½ million adults. It is not going to get any bigger. That is as big as it is going to be. When Lionel Bowen tried to ban X-rated videos in 1988, it hit its peak, and it has not changed.

Senator TIERNEY—Could you also provide us with the methodology of the survey, the sample size and the questions that were asked?

Ms Patten—Yes. It is a Roy Morgan poll.

Mr Swan—We will do that.

Senator HARRADINE—Keeping on that line of questioning, I suppose it is fair to say under those circumstances that 75 per cent of Australians do not know precisely what is in X-rated videos or their equivalents.

Mr Swan—They have never watched them?

Ms Patten—No, they have not seen one in the last 12 months.

Senator TIERNEY—Or the last 30 years.

Ms Patten—It depends who you talk to.

Senator HARRADINE—I have some examples here of the descriptions that you constantly make about X-rated material. I could make a bet that if I showed them to the audience they would be quite surprised at the type of material. It is not a couple in a loving relationship, is it?

Ms Patten—Not all of it. I do not think love has necessarily been a component—

Senator HARRADINE—Ninety-nine per cent of it is not. Might I remind you that the description of this material by the joint committee was that this material mediated in the mind of the habitual viewer a callous and manipulative orientation towards women; furthermore, that it portrayed women in general as being highly promiscuous and available. Is that what you really want going into homes unrestricted through the Internet? It is good for business.

Ms Patten—Senator, you know that that was in 1988, and I do not support that finding of that committee.

Senator HARRADINE—Oh, no, no.

Ms Patten—It was not in 1988?

Senator HARRADINE—The report was, and indeed the material is almost identical now.

Ms Patten—It has changed considerably, Senator.

Senator HARRADINE—No, it hasn't. In what regard?

Ms Patten—I don't know, maybe we should compare notes, but I think I have probably watched as many as you have.

Senator HARRADINE—In what regard has it changed?

Ms Patten—The guidelines have changed.

Senator HARRADINE—In what specific regard since that time?

Ms Patten—A specific action that was allowed in 1988 was hair pulling, for example. In fact, even words like, 'Get over here,' were allowed in 1988. They would not be allowed in 1999 or 1998.

Senator HARRADINE—Come on, apart from that. That is a very minor area of X-rated material.

Ms Patten—No, it is a whole attitude. Anything that is considered degrading or demeaning is not allowed now. You cannot say, as you could in 1988, 'Get over here,' or use similar language. You cannot say that in a film that is classified X today.

Mr Swan—You are talking about love, aren't you?

Senator HARRADINE—We went through this, and that was a tiny portion of the material—perhaps 1½ to two per cent of the material. Now what else?

Ms Patten—I have seen plenty of films.

Senator HARRADINE—No, what else?

Ms Patten—Senator, I do not agree with you. I believe there has been a radical change in the type of material that was available in 1988 to that which is now available in 1998. I have watched material from both eras.

Senator HARRADINE—I asked you how.

Ms Patten—Through the guidelines and through—

Senator HARRADINE—This is the way you creep around it. I have asked you how.

Ms Patten—I am not creeping around it.

Mr Swan—You are trying to get to something much deeper, aren't you?

Senator HARRADINE—No. I am asking for the facts.

Ms Patten—The guidelines have changed—that is how.

Senator HARRADINE—How have they changed?

Ms Patten—I am sorry, I do not have them in front of me. Shall I make a note to get the 1988 and 1998 guidelines so that we can have a look at them?

Senator HARRADINE—Yes.

Ms Patten—I do not have them in front of me.

Senator HARRADINE—You are not suggesting that in the material that we described in 1988, as described here, there was any sadomasochism or sexually violent material? There was not.

Ms Patten—I am saying that what was considered acceptable in 1988 as far as being sexually aggressive—I would not say sexually violent—is not considered acceptable in 1998 and 1999.

Senator HARRADINE—You could not have aggressive sex in the videos in 1988.

Ms Patten—But the attitude has changed, and the guidelines have even changed. They have become a lot more explicit about what is allowed and what is not. Senator, you have seen the changes—

Senator HARRADINE—Just recently there were some changes and they were dealt with at the estimates committee. But that was a very minor area of the X-rated video material.

Ms Patten—Our members, who are the vast majority of the OFLC's clients, say that there has been a considerable shift in the type of material that was allowed. And I would say that the OFLC would support the fact that there has been a considerable shift. Anyway, this is about the Internet, and X-rated material is banned on the Internet.

CHAIR—Ms Patten, it might be helpful if you wanted to consider the answer to the question and provide it in writing. There seems to be some difference of perception. It would be helpful in moving along because our next witness does have a restricted amount of time, if you wanted to put something in writing that would be fine by the committee.

Mr Swan—Yes, thanks.

Senator HARRADINE—I am sorry. We are about an hour over time.

CHAIR—Any further questions?

Senator CALVERT—I just wanted some clarification. Very early in your presentation I think you said that you are not in favour of R-rated and X-rated videos being shown on the Internet. But isn't that going to happen with the convergence of technology and therefore won't we need legislation to provide the same type of censorship that exists now on video?

Ms Patten—What I was saying is that it should be restricted. I believe that X- and R-rated material should be available on the Internet but should be restricted in their access.

Senator CALVERT—You will still need legislation to do that, won't you?

Ms Patten—Yes.

Senator CALVERT—That is the point I wanted to make.

Ms Patten—I support the notion of restricting R-rated material to adults only, but I do not support X-rated material being banned.

Senator CALVERT—So you are in favour of legislation to ensure that X-rated and R-rated videos are restricted on the Internet?

Ms Patten—Yes, categorically.

CHAIR—Thank you, Mr Swan and Ms Patten. We have appreciated your evidence today.

Ms Patten—Shall we lodge these documents?

CHAIR—Yes. Is that the Morgan poll result?

Ms Patten—It is the Morgan poll result and the main points from our submission.

CHAIR—I now welcome the representatives of Clareview Internet Pty Limited.

[4.11 p.m.]

JONES, Mr Alan Bradley, Chief Executive Officer, Clareview Internet Pty Ltd

TAYLOR, Mr David Ross, Chief R&D Engineer, Clareview Internet Pty Ltd

CHAIR—Thank you for making the effort to come to Canberra today.

Mr Jones—Yes, we have travelled a long way. David has had a flight from Vancouver.

CHAIR—We do appreciate that. We do prefer that all of your evidence is given in private, but if we ask you a question the answer to which you would prefer to give in private, then please ask us and we will do so. We have received a submission from you which has already been published by the committee. I now invite you to make an opening statement and then we will move to questions. We have also allocated you 15 minutes to put on a brief demonstration of your Internet sheriff classification system.

Mr Jones—Firstly, a bit about ourselves so that members of the committee know who we are. My name is Alan Jones. I am not the famous Alan Jones—perhaps not yet. Our business is about creating technology and products which create value added services for Internet service providers. Our philosophy is that ISPs are not making enough money and need to make more money. We are looking at creating innovative ways for tools technologies which allow them to derive additional revenue streams from their existing customer base and additional services.

One of the products we do supply is called Internet Sheriff Technology. This is a patent pending technology which provides a mechanism for classifying Internet content. It is more than just a piece of software; it is a network system which can provide a mechanism by which the Internet can be tailored to various needs. One of those needs is, for example, a family service which may exclude certain material. Another need may be a business service which may exclude sporting sites, entertainment sites and so forth. The aim is to create, if you like, a pay TV channel environment whereby subscribers can choose from various different services that will provide them the best return on their service provider.

Specifically, our comment on this bill aims to provide the Senate committee with some information regarding what we believe is possible now and possible in the future to solve some of the implementation issues of such policies as contained in the bill we see before us.

A report was done by the CSIRO last year—which I believe was presented to the committee earlier this morning, or at least a summary thereof—which outlines the various technical issues in terms of the filtering or the blocking of the Internet. We have a critique against that report, in the sense that I think that probably the best way that we can characterise that report is as an ‘Maginot line report’, referring to the French defences against the mobile German army. Certainly the CSIRO report, in our view, is an excellent critique of existing inappropriate tools—specifically, firewall IP filtering and proxy based filtering—for a static defence against a dynamic problem.

In the creation of our technological services we have tried to address many of the issues that the CSIRO report rightly brought up. I believe that in terms of application filtering the CSIRO report brought up seven items, of which we think we can address about six, or perhaps 6½ to some extent. On the technical issue of packet level filtering, it brought up seven items, four of which we think we could probably address and two of which are probably inappropriate for the report. In our opinion, any comment on e-commerce without any definitive research is probably inappropriate for such a document. Issues such as router upgrades are probably also inappropriate, because they do not really go to the core technical capabilities of any such service.

So, essentially, our overall comment on the bill is that it is our opinion that in any society the method of communication should not be the primary discriminator for the content. So, in some ways, we support ACS's view, whereby you should apply media policy consistently, wherever practicable, across all forms of communication. To do otherwise would be like saying, 'We will allow certain sorts of comment on VHS video, and we will allow another on Betacam.' They are two technologies, both of which have the ability to deliver similar results. So, if you take that policy of a consistent media approach in the whole society, it comes down to what is technically able to be implemented. We believe that the CSIRO report, as outlined, is an excellent document that outlines how to do it using the current technology in ISPs.

There are many and various ways of providing some sort of managed environment for children, for parents and for businessmen. Surprisingly, we find that one of the largest groups requiring a service which excludes such things as pornography is not the home or the family but the businessman. This is for two reasons: firstly, staff productivity takes a backward step once they are hooked on some of this addictive material; and, secondly, there are health and safety issues in terms of providing a safe workplace that is non-threatening. We believe that, in some ways, the demand we are seeing for the products in the marketplace is substantial.

The second issue in terms of providing a service which can block or filter the Internet is speed. We have seen many submissions today regarding milliseconds of delays, and so forth, and they are absolutely correct if you use a proxy based solution. Our contention is that if you do not use a proxy based solution to derive the outcome that you are after, perhaps the results might be different. To give you some idea of how it can be different, one of the major criticisms of proxy based solutions is that when you pass a request through a proxy based solution it is then slowed down.

I note from the RAA's submission that the majority of web sites that are surfed are actually okay; they do not actually contain material which could be classified as X or RC, so those sites need not go through any filtering mechanism. So the only sites that are slowed down are the ones which are either unclassified or low volume. Our view is that you could probably implement a mechanism which would have a minimal effect on the online performance of the Internet by using an approach which is a bit more intelligent, an approach that was not based on a proxy based solution. I should have said in my preliminary comments that proxies are used to cache or store the Internet in order to maximise bandwidth; they are not necessarily designed to do any content filtering. So, in some ways, using them for that purposes is a misuse of their design.

Another issue that is often brought up is cost, that such a service would derive additional cost to the ISP. Generally speaking, any economic service that is brought forward has an impact on the economy as a whole, because someone is doing something more than they were doing beforehand. But we would like to make additional revenues for ISPs. We have many different product streams. In fact, our business model would give the ISP either a sign-on workstation computer or wholesale data feed from Telstra, Optus or AAPT and then share the revenue streams that we can derive from the various products that we have.

In terms of what additional costs an ISP would necessarily have to have, there is no capital cost in our business model and there is only additional revenues. Of course, there is an economic cost that has to be paid by someone, and usually that is the end user. Whether you are using Net Nanny or any other approach, there is usually a piper to be paid someplace. We would like to be able to say that we do not believe that the issue of speed is necessarily a problem. In fact, we make the observation that if speed was the issue then why do we see ISPs all around the nation running to use satellite services for Internet connection, when the satellite delay is significantly more than the landline delay? It is our contention that any service that would be introduced could have a much less significant impact than does the existing trend towards satellite Internet, because of the satellite delays within the speed of light.

Overall we have no particular philosophy about what is good or what is bad. In fact, one of our designed systems allows for an independent arbitrator to be plugged into our network, such as the ABA or similar bodies, church groups or community groups—many classification schemes. We do not rely on just one aspect such as a classification service. We look at many different methods by which we can automatically classify the Internet, most looking at the behaviour of the traffic profile of the site itself. So, essentially, we believe that the bill in itself contains some issues that are very commendable in what they attempt, but there is some contention over the CSIRO report that is often quoted.

One issue we do have regarding the bill is that the ABA, under the current proposal, would take public submissions for web sites or other material which would be deemed to be inappropriate. As the only provider of such technology in this half of the world, from the equator down, we would like to do that because it is a good thing. We would actually write the report and give the ABA a list of web sites, except that is our intellectual property. So by giving the ABA our web site listing—a black list—and saying, ‘Here is a list of web sites we have detected which may contain material which is deemed to be of that classification,’ we would be giving away a valuable asset of our company. We would be more likely to participate if we knew that the intellectual property that our company is building up was protected and would not be put into the public domain. In the current form, we would probably not participate in reporting any sites to the ABA because that information, besides being a black list, is then placed in the public domain, which then damages our export capabilities.

CHAIR—Mr Taylor, you have come such a long way across the world, I am sure you have some remarks to make to us.

Mr Taylor—Only that what we have developed is a technical solution to what is really a moralistic standpoint. Technology does not have a moralistic standpoint. It is just a tool, and you can apply it however you want—whether the ABA or somebody else does it.

CHAIR—Is it the wish of the witnesses that we now move to have the demonstration?

Mr Jones—Can I make a preliminary comment about why what we are doing is different. Earlier on, Senator Harradine was quoting Moore's law and a gentleman from www.consult said that Moore's law does not apply to the Internet. We most definitely disagree. Each router that is in the Internet or switch contains a CPU. Cisco 3640 contains an 80 megahertz chip inside the actual router. So is bandwidth related to the amount of CPU that is used? Most definitely, otherwise Cisco would not sell various brands of routers. Our contention is that a lot more can be done by creating a network device that sits in the network by applying modern CPUs to it that can actually provide some level of filtering.

On the second part, I would like to make the point that we have had a lot of submissions about various different solutions to the problem of empowering parents to make decisions. Let me just clarify to members of the committee that there are only three places where you can do these things. You can do it at the quiet end, on the PC, such as Net Nanny or, for example, with AOL—they provide a closed Internet experience, as outlined previously. The second place that you can do this sort of work is at the server end by actually finding those web sites and removing them from the server side. The third place that you can do this is actually on the network in the data stream. We have the only device that we currently know of that does this. The Internet may be viewed as thousands and thousands or millions of web sites. In fact, it is not. All it is is a stream of data that is passing between many computers to another one. If you can intercept that data and profile it, which our patented technology does in an attempt to provide some classification services, then applying CPU to the network is definitely a possibility.

We do not believe that client side solutions such as Net Nanny will work, mainly because every PC can be disabled. Any solution that sits on a PC can be disabled. More importantly, as we go towards web TV we go to PalmPilot and other devices which are not necessarily made by Bill Gates-stamped operating systems, and then the plethora of solutions that need to be created is not appropriate. In our view, the only correct place to do this is not on the client side, it is not on the PC, it is not on the network reception device; it is on the network. It is a network service and, by virtue of that, it needs to be done at the network level which in turn is at the ISP. Also we do not believe that some proprietary solution, such as AOL's junior service or kids net, which is a closed Internet environment, will have any long-term benefit. As children get older, they want to get access to more and more things and parents will inevitably acquiesce. We also believe that a labelling solution whereby sites voluntarily label themselves as indicated by the RSACi or the PICS standard is also inevitably doomed because the very people who want to provide such information are the very last who will volunteer their sites to be categorised. We believe that the only solution needs to involve the industry, education and government at all levels.

As to whether the bill as it stands should be made compulsory for all ISPs, that is a question that we do not really want to enter into. But we believe in freedom of choice. In

many places of this great country of ours—having spent time in Rockhampton and various places in North Queensland—I know that a lot of ISPs do not provide that choice.

One of the issues that the CSIRO report rightly raises is: how does one deal with the ever changing and dynamic nature of the Internet? From our viewpoint, although it is imperfect, we should look at acknowledging problems, and in some ways issues such as parental supervision will need to be applied at all levels. What we will be looking at in our demonstration today is whether this problem is about a glass being half full or half empty. We are trying to push the envelope as to what can be done about this media classification service. We believe we have got a solution which is not too bad and, in fact, although the company has only been operating this year, we already have somewhere between a quarter of a million and half a million subscribers under contract waiting to take this service up.

CHAIR—Let us have a look at it, Mr Jones.

The device was then demonstrated—

Mr Jones—While we are waiting for the system to connect, I will tell you how it works. As the data flows from the Internet through to the end consumer, we look at various aspects of it, including PICS ratings wherever possible—image sizes and text—which form a predictive model of what a site would look like. As we scan sites through we can classify this material. So far we have a pretty good engine that classifies gambling sites, search engines and pornographic sites. As we build more models, we can classify more and more material.

I should say that one of the neat things about this technology is that you cannot see it working. Because we are not running a single piece of code on the PC and we are not running a proxy server, it is all happening in a software switch which means we are combining application- and packet-level filtering technologies in a dynamic fashion. So think of it in this way: it is like a list based service which can provide a black list but which can also dynamically add to that black list depending on the probability of it actually finding a match. Pornography sites stick out very obviously on the Internet by virtue of the fact that they are large images downloaded in a certain behavioural manner. So we look at time, behaviour and various aspects of the consumption, which we model.

Using this device, when David hits the URL and the packet flows through our device, we can either inspect it, model it or deny it. So in some ways we are a mixture between an application-level proxy and a firewall router. We can move up sites between the two modes in various ways. What happens is that, when we type in a site that is banned or deemed to be not correct, we replace the page that would have come up with any arbitrary page. What we will not see in this example is the computer, behind the scenes, working out that it was a naughty site. When a site appears for the very first time on the Internet, will a person see pornography using this service? The answer is yes, definitely—because by seeing it, it exists. The site does not exist before it is first seen; then we can model the site, detect it and block it automatically in a high-speed router.

CHAIR—Can you tell us, for the benefit of those who are sitting too far away to read it, what the text is on that site in the example.

Mr Jones—It can be anything you like; it is changeable. We can say, ‘Go the Broncos.’

Mr Taylor—We are actually dialled up through the Seaview service in Brisbane for this demonstration. We are doing it remotely, so it just explains about that service. It is a small ISP.

Mr Jones—This is one of the many products we provide to ISPs. We have created a device which can actually manage the data stream. We are at the leading edge because we are creating a new sort of device for the Internet. For example, when Cisco came along and invented the router, he created a new device for the Internet. Previously there were just UNIX machines linked together. We would like to make this machine the most glorious high-speed Internet managing device on the planet. By applying lots of CPU to the problem, we can do some pretty neat things.

I should also make the point that no technology solution by itself will yield a solution which will ban all such sites. No solution will stop pornography or any material from being seen by anybody because, inevitably, just as easily as I can put a floppy disk in my pocket and post it to my friend overseas, someone can email me material that is impossible to see. So it really comes to this: if the aim of the bill is to block or ban all material, then it will fail. But if the aim is to significantly suppress material, such that it is more difficult to locate and more sporadic, then it has a chance of succeeding.

Mr Taylor—What we would like to demonstrate is the way in which the technology works, in that it finds stuff in real time. So as the traffic comes through the machine, the device looks at it and tries to determine what kind of content is coming from the published site. We will use one that we know will work quite well with the demonstration. We can actually see how it works. The device has not seen this site before because we removed it from the database earlier so that we could do this demonstration. At the moment it is learning what is on the site by looking at various statistics about the data stream.

Mr Jones—We are actually dialling through the telephone service to Brisbane, so the speed is not what it could be.

Mr Taylor—I will now try to go further into the site—and you can see that it is blocked. What it has done there is this: the previous page we were on was like the first part of the site, and there was enough content there for the device to determine the nature of the content; it has decided that it is obviously quite rude and has taken it out, and so we cannot get to the next page.

CHAIR—Would that be about the average length of time that it would take to do that?

Mr Jones—Some sites would take up to about three or four minutes of surfing before we could detect them. But if we have not actually worked out what the site is within about half an hour of viewing, we give up; it is not going to happen.

CHAIR—How many pages were on that site?

Mr Taylor—Just the one.

Mr Jones—But it was a very long one. Imagine there is a network of these machines in various ISPs throughout the whole world. There is like a level of confidence that that is a site of that sort of classification that we can derive—a probability level. If it is of a certain level, that decision will automatically cascade through all our computers, through all the ISPs in the world that use our service. So it would take only one person in the world to view it for all of the people in the different areas to cascade that through. In fact a person who wants to view pornography in the jurisdiction that allows it can identify a site for a person who does not. So we are not looking at individual uses of it; we are looking at the general flow of traffic from sites. One of the issues is that these sites appear dynamically—they appear and disappear. The only way we can track them down is by dynamically modelling them on the fly, which we have been very successful at.

Senator HARRADINE—How do you distinguish between medical sites, for example, and pornographic sites?

Mr Jones—You could imagine that if you rely on one single aspect of a site—for example, the density of pictures—your confidence would be fairly low. But if you look at the overall traffic consumption of data from a particular site, such as the text to picture ratio—how much text and how much picture is in this document—or whether certain words appear in association with the site or whether it has a rating service like PICS, all those things together form a model of what a site should look like. One could probably argue that a medical site would have words which are anatomical, but it would not have words which might be found on a pornographic site. Conversely, words by themselves may not be enough to tip a site over in terms of the model.

I should also say that the models are completely arbitrary. We do not control them; they are controlled by other people. For example, if we asked a church group, ‘Would you like to create an Internet modelling service for your members?’ it is quite possible that they could make a more aggressive model whereby they might make that error and the medical site might be blocked by mistake. Nevertheless, all sites can be reviewed for correctness of decision. It does not matter whether they use the URL or the IP address or they move to a different socket number, we can track that down and pass everything through the modelling engine.

The way it works is that we do not delay the traffic. On the question of whether there will be a penalty involved if traffic is going from consumer to end, we move the traffic through as a priority and we model in the background—the priority of our hardware is to always move data and then strip off a copy of it and analyse it in the background. Our rationale is that most people are okay, but some people are not, so we are taking the positive view of the world.

In terms of the scalability of the solution, we have a baseline that we want to reach—I think we have reached it—which is 100 megabytes per second, with average dilatancy between two and 10 milliseconds per packet, but we have confidence that if we had the right hardware from Sun we could scale up to 622 megabits per second with much lower latency than that. That is very achievable. So we do not think there is any real technical problem for performance. If you compare us with the satellite Internet, then satellite is going to give you

a much bigger delay than anything that is doing this, and ISPs are rushing towards it right now.

One issue that was brought up in the CSIRO report that I found interesting was the comments of how e-commerce could be hurt by such blocking. Whilst it is true that blocking will hurt e-commerce sites that co-host pornographic material with their sites, I think the worry of it will be almost negligible. Ask the question: how many different e-commerce sites have their e-commerce site based on the same machine as a pornographic site? I think it would be very small.

Senator CALVERT—They would probably change it anyway if they knew it was going to affect their business.

Mr Jones—One thing that we do want to highlight—I know this is in the report—is that, in terms of moving content offshore, a lot of the merchants who provide such material to the public have their sites managed from Australia but are based overseas. In the *Age* on Saturday 5 December last year, I was interested to read that apparently the world's first—and fourth largest—adult entertainment group is based in my home town of Brisbane. We are not here to say whether this is a good or a bad thing; we are trying to inform the committee about what we think can be done and what cannot be done. And we do not know what cannot be done yet; we are still finding out what can be done.

Senator LUNDY—You mentioned earlier comments about proprietary software and proprietary systems available through what you describe as closed networks like AOL. Do you consider your product to be proprietary software?

Mr Jones—No. In a sense, proprietary means that it runs on a client site, that it will work only with their service and provides a closed view of the Internet, which means a white list approach whereby certain sites are deemed to be okay. So proprietary there is, for example: can I run that software on a Linux machine? If the answer is no, it is probably proprietary. Can I run that software on a third-party service—for example, can I run the AOL software on OzEmail? If the answer is no, then it is proprietary. So, in the sense of that, some companies are doing some very good things. I think AOL is providing a genuine attempt to meet the needs of its customers, but there are approximately four million users of the Internet in Australia, of whom 90 per cent do not have the benefit of that material.

I was interested to hear the comments from one of the local representatives from Net Nanny when I was in Vancouver recently. A call came in, 'Well, can I be sure that my kids aren't going to see something?' The answer was, 'There is no solution. Parental supervision is required.' So the bottom line is that no matter what technology we try to attack the problem with, parental supervision is going to be part of this equation. As to what level of satisfaction can be derived technically, that is an open question and we are pushing the envelope as hard as we can go. As to what the best solution is, it is going to be a solution with many different aspects—freedom of choice, empowering parents to make informed decisions and providing some technical solutions.

Senator LUNDY—In terms of the product, you obviously as a company are engaged in marketing and distributing your product. To what capacity and at what cost is it available to the current market in Australia?

Mr Jones—We employ a business model whereby we provide the equipment free of charge to an ISP.

Senator LUNDY—What do you mean by ‘equipment’?

Mr Jones—We place a very powerful and intelligent Sun Microsystems computer as a software switch that they pass their traffic through. It is a substantial capital item. If the ISP is large enough—for example, we just signed an agreement with connect.com—they can then wholesale that service to downstream ISPs. A downstream ISP is one who purchases bandwidth from a background carrier. They can purchase bandwidth that has been through one of our devices and get a clean feed from connect.com.

Senator LUNDY—So, for the purposes of the CSIRO report, that would constitute what Dr McCrea described as a ‘differential service’?

Mr Jones—That is correct. So there can be multiple differential services—for example, a business one which does include sport or gambling. There might be a home one which is targeted towards children. These are open solutions. They are other ways. Let me compare and contrast that with a closed solution—Kidsnet or the AOL experience—where the list of sites is predetermined. When it is an open solution in some ways that is more risky than a closed solution. Some parents may want to chose that closed environment, particularly with the younger children.

Senator LUNDY—On that point of open and closed solutions, where is the flexibility? Does it lie with the differential service and options provided by the ISP or the backbone service provider or, indeed, that end user? Who has the flexibility with your product?

Mr Jones—The way we view it is that there is what is called a ‘vista’, and a vista is like a view of the Internet. We envisage that, when a person subscribes to an Internet service provider, they will choose the vista of their choice: ‘I don’t have time to work out where my kids are going. I don’t understand the Internet. I’d like to have somebody I can trust who is going to provide me with that service based on a particular moral stance.’ Initially, we will be providing that service based on some sorts of rules ourselves, but our technology is designed whereby an ISP can offer several subscriptions. For example, the Church of Latter-Day Saints may choose to have a subscription for its members. The ABA may choose to have a service, for example. So, in terms of making their choice, it is done at the consumer level, but it is outsourced. It is not the parent making the decision, saying, ‘I don’t have time to do it. I’ll buy a service so that I know that my child cannot remove any software from the PC and which works with Mac and with any particular device that I have got in my house. I have some confidence that the person who is making that decision is going to make a decision I’m comfortable with.’

Senator LUNDY—Okay, but I suppose the point is that the consumer—the end user—is still making that decision and making that selection.

Mr Jones—Correct.

Senator LUNDY—That does not sit particularly comfortably with the statement you made earlier. I understood you to say that you did not think your solution was in fact an end user solution. Do you see what I mean? I am just trying to ascertain where the actual choice is. It seems to me that what you have to offer is choices at each of those levels—

Mr Jones—Correct.

Senator LUNDY—rather than not at that end user level.

Mr Jones—Ultimately, the power of the decision is with the consumer in our model.

Senator LUNDY—It is? The end user?

Mr Jones—Yes. So they say, ‘Do I want to have the one that contains all the naughty bits, do I want one for my business, do I want one for my family or do I want one for my church?’ We want to provide as many different choices as possible. Initially, there are two choices—one business and one family—which we are providing. But we do not see that as our mission statement. Are we the moral arbitrators? No. We want to empower people to make that decision. We do not want to empower the end consumer to do that, because they can’t. Parents can’t make that decision.

Senator LUNDY—I am sorry?

Mr Jones—Parents cannot make those arbitrary decisions.

Senator LUNDY—You just told me that they could.

Mr Jones—Let me explain that. They can’t make the decision in terms of whether a web site is bad or good and keep track of that, They are physically incapable of doing that because of the numbers of web sites appearing. Therefore, they can choose to have someone do that on their behalf.

Senator LUNDY—Yes, which is what all of the models that have been presented to us effectively do.

Mr Jones—Correct.

Senator LUNDY—You said that your product is both a packet and an application level blocking system. I think I have a reasonably comprehensive understanding of what it does, but can you describe for the committee’s benefit where you see its role with respect to the backbone service providers quite specifically?

Mr Jones—One of the ways it works is that every computer that is on the Internet has a unique identifier; it is called the ‘IP address’. That is a worldwide address that is allocated either by regulatory authorities on the Internet or, when you dial up an ISP, the ISP automatically allocates you this IP address. Our product works by placing a consumer in a

pool of IP addresses of a certain service. So, when a dial-up user or corporate is allocated, the ISP merely configures our machine with the appropriate IP address range or pool of IP addresses that belong to a particular service. That turns on or off our technology in our machines.

Senator LUNDY—Sorry—can you say that again, please?

Mr Jones—What we provide is a mechanism by which the end user IP address is the primary descriptor as to whether a service is applied or not. So, when you dial up an ISP with an account and a password, the ISP will allocate you an IP address of a certain pool of IP addresses.

Senator LUNDY—As described by your filtering software.

Mr Jones—That controls our filtering software by that allocation.

Senator LUNDY—Right.

Mr Jones—A corporate user might have all their IP addresses in one pool or another.

Senator LUNDY—I want to clarify something. The analysis of that pool of IP addresses: how is that established?

Mr Jones—When the packet passes through our machine that is the trigger by which we apply the rules or do not apply the rules.

Senator LUNDY—Right. You touched before on some of the descriptive parameters of given IP addresses or packets of information. Can you give an example as to what would constitute a descriptive parameter for the purposes of blocking, say, an offensive site?

Mr Jones—A very good descriptor is: does this site have links to related sites? The way these porn sites work is that they have chains of sites that are related. If I have a site and I have, say, 20 links to sites of a similar category, then there is a high probability that I am actually of that category as well—if I am not a search engine. There are what are called ‘link sites’, which are typically like that. Another thing is words. Some of the words that appear in these sites are pretty much not found anywhere else on the Internet. Also, there is the picture-text ratio: how many pictures do they download in real time to the ratio of text?

These sites are consumed in a certain fashion. They are consumed differently. If, say, I am reading a Dickens novel, do I read it differently from the way I read a *Playboy*? Behaviourally, I read it differently. We can take that into account in our modelling. We can put all these factors into a normal linear model and draw up a probability out of that model. We do it in real time.

Senator LUNDY—So, in terms of establishing the probabilities, these descriptive parameters that you apply: to what degree have you tested them out on, for example, a site that does not constitute an effective site? What is the miss rate?

Mr Jones—There are always two ways to make a mistake in life, or maybe more my wife tells me. You can make a mistake by letting a site through that should not be let through. You can make a mistake by blocking a site that should not be blocked. The question is: how aggressive do you want the model to be? We have designed it in a way that you can turn the knob up or down. For example, would a church group rather make the first type of mistake over the second type? If so, they can dial the knob right up and make it really aggressive and turn sites off aggressively. A more liberal minded person might say, 'Let's dial it right down to make the ratio of the first type of mistake to the second type less.' So they can dial the knob down and say, 'These words are okay. These images are okay, but I am not really certain.' Also several actions can be taken. We can report the site for review or we can report and block it. So, again, action can be taken as well. Can we make mistakes blocking things artificially? You bet we can. We can dial it right up and block most of the Internet out.

Senator LUNDY—This is the point. Consistently we have heard evidence about what is technologically feasible, but at this point no-one has been able to unequivocally provide guarantees of no error rates. I take your point about the adjustment within a certain parameter or field of error.

Mr Jones—This dynamic Internet is changing and people can write programs that produce new web sites every second. The only way to address it technically is to get another computer program to try to work out what is going on. All computer programs are imperfect.

Senator LUNDY—The next question I have relates to tunnelling software and virtual private networks. What relationship do those technologies have with your model?

Mr Jones—Tunnelling is where you embed a protocol inside a protocol. The ultimate tunnelling is called encrypting within the encrypted data stream.

Senator LUNDY—I understood encryption and tunnelling to be distinct, not incompatible but distinct technologies.

Mr Jones—Yes, they are distinct, but I was responding to both in a composite response. The answer is: you can tunnel in either plain text or otherwise, but one thing you cannot hide is traffic profile. Pornography sites have a very unique traffic profile. Even if we could not confidently say, 'This is obviously a site because I am looking inside it,' we could say, 'This looks pretty suspicious.'

Senator LUNDY—So you think tunnelling does not bypass your software solution?

Mr Jones—No. Imagine a model that has predictive power. If you remove various elements from it, it becomes less accurate. For example, if I cannot see the words because they are encrypted, I cannot use them.

Senator LUNDY—I am trying to get clear in my mind the distinction between encrypted data and data that is embedded within a different IP address.

Mr Jones—A good example of a tunnel site would be something like an anonymiser, which is a web site that is used to surf other web sites. In that case it is like the whole web proxy in some way. That is still able to be passed through our system without any change because it is plain text. If they tunnel from point to point, for example, if a customer has a VPN to a VPN, then one could argue that that private network is not on the Internet in the sense that it is not a public network. So if a corporation has a VPN to another corporation and they happen to be exchanging information, then that is really not on the Internet.

For example, if I wanted to have a tunnel solution whereby I was provided with material and I enabled some proprietary tunnelling software on my PC and then I accessed that material from people at a pornography site, one could argue that is still a private network. If it becomes widely distributed, then it would be part of the Internet. In some ways there is an acknowledgment that the Internet is a dynamic thing—it can change and block. But there is also an acknowledgment that there is enormous inertia in terms of the agreed standards and protocols that people use. People still use port 80 for the web traffic even though they can use any one they like.

Senator LUNDY—In introducing the notion of tunnelling technology, we are in that area now where people are actively trying to bypass blocking technology. I am interpreting from what you just said that, despite this system, if someone is actively seeking to bypass blocking technology, then tunnelling is still an option for them to do so.

Mr Jones—Indeed. Unlike other solutions, we would be able to detect to some degree what is going on by the traffic profile. You cannot hide a traffic profile. When a person sits and consumes this material, they have a very unique traffic profile, which by itself is a fairly good predictor of material. I take your point. If I wanted to bypass any mechanism, the answer is: yes, you can.

Senator LUNDY—The point is, relative to your comments on the CSIRO report, that that assertion is contained within the CSIRO report. They make the point: even if it is technologically feasible to implement a blocking technology, in turn, there are other ways of getting through that, which is tunnelling technology. I am making the point that I do not think the conclusions in the CSIRO report are inconsistent with the evidence you are presenting.

Mr Jones—We agree with them. Where we disagree is what could be done rather than what cannot be done. Is there any solution that we guarantee? The answer is no.

Senator LUNDY—It is being suggested that the government legislate to mandate blocking technologies. Obviously, based on what you have said, there is a commercial opportunity in this for you.

Mr Jones—Australia represents about two per cent of the world market.

Senator LUNDY—Looking at open solutions and the development of collaborative software and so forth, what options are there for your type of solution to constitute free ware for the purposes of the community benefit that it could possibly bring?

Mr Jones—My shareholders are interested in return on investment. I do not retire from the fact that we are a commercial company. That is why we will not be making any submission based on whether it is moral or immoral to do this. Also, we do not think it is fair for us to comment on whether it should be made mandatory or otherwise because we would have material benefit of that. We like to compete on a level playing field. We would love it to be made the compulsory standard, but it is not our place, as a private company, to argue that we should be preferred over another one. We are happy to compete on our merits.

CHAIR—We have had a number of statements made to the committee over the last week in relation to this legislation. I would like to put a couple of them to you and ask if you could respond to them. The first is that it will substantially destroy e-commerce internationally.

Mr Jones—I find that hard to believe. I think that e-commerce would only be affected if you went for a packet level based filtering whereby you would stop a particular packet level. Certainly, you would hurt a lot of e-commerce in terms of the sale of pornography. There is no doubt about that, and that is one of the largest economic earners on the Internet. So maybe the answer is that, yes, it will affect it. Will it affect e-commerce? There is a trend now with most e-commerce sites. IBM have a very good marketing campaign by selling machines dedicated to e-commerce for a site. There is a chance of bureau services providing e-commerce material. In my opinion, it would be very hard to justify that statement on any economic basis I can think of. I would like to see some research into that ambit claim.

The Internet is the perfect laissez-faire economy. Pareto's principle still holds true with the Internet. If you think about it, 80 per cent of e-commerce is currently being done by probably 20 per cent of the people on the net. The only people making money from e-commerce are probably Amazon, Barnes and Noble and other such people selling commodity items or unique items. Broadly speaking, will Australia be hurt by having a mechanism by which a site could be co-hosted in a foreign country with material which we may think to be inappropriate? If we choose to use packet level filtering, the answer is yes. In relation to the probability of that occurring, which I would put as a proposition to be tested under research, the answer is that that probably has a very low probability of occurring. If that can be done at the applications level, then there is no chance of that occurring.

CHAIR—What about the suggestion that it sends a message to the world that we are moving into a situation where we could be compared with countries like Burma?

Mr Jones—I have a comment. I was in a hotel room with some North American company watching CNN just after the recent Colorado shootings, and very sad that is. I will read what the American Attorney-General, Janet Reno, said on *Larry King Live* on this question. King said:

Is the Internet a tough thing legally because of the First Amendment?

Reno's reply was this:

I think you have got to balance First Amendment rights with other rights, and you've got to look at how the Internet is used. But one of the things that I have discovered, Larry, is a kid will know that he shouldn't go into a certain neighbourhood, but he doesn't know that about the Internet. And we have got to devise ways that parents and children

can become more acquainted with the Internet: what the pitfalls are, what the dangers are. And parents ought to be able to have tools when they have to work, when they're not available to supervise what their child is doing, to make sure, if they want, that they can pursue the situation either through a block of certain Web sites or an itinerary where the child has been that day on the Internet.

In terms of that comment, it is an issue that we believe is going to become more and more widely spread throughout the whole world. Here we have the bastion of free speech, the highest law-maker, raising this issue of concern.

CHAIR—It has been suggested to us that it is too difficult to do this. It is very hard to do this and therefore it is better for it to be done by individual parents on their home computers. Is it very difficult to do? Do you think you are going to have a worldwide monopoly on this technology for very long?

Mr Jones—I would love to say we would have. We have applied for a patent, which gives us some protection of what we are doing. Let me put it this way: just because something is noble, just because something is good, just because something is right does not mean that it should not be achieved. Just because parents are looking for a solution, whether it be provided by a third party as a service through an ISP or provided by PC software they can purchase at the local supermarket, the need and demand out there in the market is real and measurable. It comes down to this question: as a society, what do we intend to do about it? Do we tend to throw our hands up in the air and say, 'It's all too hard. The problem's unsolvable. Let's not do anything'? I think we are having a reasonable debate about what should be done.

CHAIR—So how long do you think it will be before somebody is breathing down your neck, technologically speaking?

Mr Jones—We assume they always are.

CHAIR—But realistically—three years, five years, one year?

Mr Jones—Internet time is seven years. We are moving ahead as fast as we can. We do not expect to have market dominance. We want to get between three per cent to five per cent of the world market. That is our aim, which is enough to make us a fairly successful company.

CHAIR—What about a company that is a multinational which wants to communicate world wide but which also wants to ensure that its employees are not able to use work time to have access to inappropriate sites, whether they be game sites or any other sorts of sites? What sort of comment do you make to suggestions by previous witnesses that this would also send a very bad message to the world about the way Australia operates commercially?

Mr Jones—I was recently an employee of Sun Microsystems, which is a very good company, and I was sad to leave them. They had a situation. I was speaking to the managing director, Mr Russell Bate, a friend of mine, regarding this issue. He had the very unpleasant duty of pointing out that a certain employee needed to leave the company due to what he was viewing on the Internet. In relation to the question as to whether multinational companies have in their corporate policy that employees should be watching this material, I

find it very hard to think of a situation whereby a multinational would encourage employees to do this. In fact, I have been advised that there are legal cases where disgruntled employees have sued their employer for providing this material on their desktops and forcing them to use the Internet as part of their work conditions.

So most employers think it is a great idea to remove the material. So the answer to the question is that it is a tough call. I cannot think how that would hurt Australia's standing. Are we the core solution? I do not think so. There is a multifaceted solution to this problem. As Australians, we are committed to the fact that we are trying to address this problem, and we see Janet Reno trying to address it herself. So in some ways we could be leading what is called the free speech world into a media management environment. I cannot think of a single democracy anywhere in the world that does not have some media management policy.

CHAIR—Certainly Australia does.

Senator CALVERT—You have told us about how your technology works basically, and the chair asked you about e-commerce. But one of the things that has been put to us in evidence is that blocking techniques might have the effect of blocking out wanted material rather than unwanted material. With your technology, is that possible?

Mr Jones—My oath it is. You can make two mistakes. You can make mistakes whereby you accidentally block material out versus mistakes whereby you let material through. Will any blocking philosophy make mistakes? The answer is yes. In fact, you could argue that the current media, newsprint, makes mistakes too. We often see complaints to editors, complaints to the appropriate regulatory authorities, saying that an editor made a mistake in letting a story through that should not have gone through. So the answer is yes, definitely.

Senator CALVERT—But you have already told us that it should not slow material up.

Mr Jones—There will be a transaction cost. Our point is that that transaction cost is much less than has been stated.

Senator CALVERT—It goes without saying that technology is advancing at a more than rapid rate. We heard this morning that, after 12 months, users in Australia have gone from 1.6 million to 3.4 million and they say that the speed of computers doubles every two years. How quickly do you think your technology is going to advance?

Mr Jones—There is a famous analogy that I heard back in the computer industry some years ago. You are going across the wild west in a wagon and you have eight strong horses pulling you. Would you rather have eight horses or a thousand chickens? The answer is that a thousand chickens have more horse power than eight horses. Our strategy is that we have a lot of computers to do the job. We do not have only one machine but a lot of machines working. Each machine is scalable from one CPU to 64 in a single box. So we can scale both in numbers and in processing capacity. Do we think it will be a problem? Yes, we think it will be but not for a fair while.

Senator CALVERT—Given the technology that you have, that you know of and that others may have or be working on, do you believe that, according to the outline in the bill, it is technically feasible to take reasonable steps to prevent access?

Mr Jones—I think the phrase ‘technically feasible’ is a spectrum; it is not a statement of what is done. We have pushed the envelope out a little bit further than what it was six months ago when the CSIRO report was written. Does it have failings? Yes, it does. Is it perfect? No, it is not. Is it technically feasible to do some of these things? I think the answer is that it is becoming more and more so, yes. Whether it is desirable or otherwise is a point that we do not want to become involved in.

Senator CALVERT—That is our problem.

Mr Jones—It is a type 2 problem. It is not mine; it is somebody else’s.

Senator LUNDY—We have heard a lot about the application of your technology for the purposes of filtering content and providing a censored regime for Internet users, et cetera. What other purposes does your technology have at a commercial level?

Mr Jones—My original comment was: what business are we in? We are in the business of making ISPs money. We do not believe they make enough money. For example, we have products that can provide additional revenues for ISPs beyond this particular content. I cannot go into the commercial-in-confidence issues, but let me just say that we believe that our products could add up to a 30 per cent increase in the net revenues of ISPs by utilising their existing network infrastructure and core assets of the business, which are their customers. They are currently not using that.

We would like to go to an ISP and say to them, ‘These guys over here are making money over your customer base and you’re not. Can we give you some tools to help you make some more money out of the customer base?’ Only one product is an Internet sheriff. We have other ideas for doing these sorts of value added Internet services. The best analogy I have is, when you used to buy a mobile phone, you used to make calls, but now you can have call waiting, message bank, all these value added services. We are in the business of creating those value added services for the Internet data stream.

Senator LUNDY—Do you use the same methodologies that you have described about scanning, using descriptive parameters and analysing content to actually use those value added services?

Mr Jones—No.

Senator LUNDY—What do you use?

Mr Jones—I would like to decline that comment because of commercial sensitivity.

Senator LUNDY—Are you saying that is commercial-in-confidence?

Mr Jones—Yes.

Senator LUNDY—Would you be prepared to offer some evidence in camera?

Mr Jones—Yes, we could.

Senator LUNDY—I am interested in pursuing this.

CHAIR—The committee would be interested in that, if you are able to supply it without breaching commercial-in-confidence, obviously.

Mr Jones—I think we can, yes.

Senator LUNDY—What is the process, Chair?

CHAIR—It will be sent in, I guess. Are you going to send it down to us?

Mr Jones—I am happy to talk about it now.

Senator LUNDY—We will have to do it in camera, though.

CHAIR—Yes, and I am also concerned that you want to leave by half past five.

Mr Jones—No, that is okay. David's body clock says it is 3 o'clock in the morning anyway.

Senator LUNDY—Perhaps before we embark on what is rather an elaborate process of moving to an in camera situation, which I understand would involve clearing the room—

Mr Jones—I could talk privately.

Senator LUNDY—I will explain why I am interested in that. If the implementation of such a technological solution is mandated following this political debate, I think it is imperative that the parliament have the opportunity to understand the full range of implications of that—for example, any relationship or impact it may have on privacy implications for ISP customers and any other social impact analyses.

Mr Jones—Indeed. We could do a lot more than we do regarding those issues, and I am happy to discuss those issues and give a full range of what we are thinking of doing—what our current product offerings are, what we will be offering in the near future and what our long-term product ranges are. We are happy to disclose that information in camera.

Senator LUNDY—I will just ask you a general question in relation to privacy legislation. We do not have any privacy legislation in Australia at the moment relating to the data held in the possession or under the control of private companies. Is this an issue of concern to your business?

Mr Jones—As someone once said, 'There ain't no privacy on the Internet. Get over it.' His point was that, once you throw data on the data stream, it has crossed jurisdictional boundaries and anybody can look at it. So regarding the question of what is private and what

can and cannot be used, I do not know the answer at this point in time. In terms of the way we approach our products, we can do a lot more in terms of invading people's privacy than we do. So there are things that we can and should do, and we are always erring on the side of 'should'.

Senator LUNDY—Do you support privacy legislation for the private sector?

Mr Jones—We have no comment on that.

Senator LUNDY—Mr Jones, I have one last question which I would like to leave on notice. Without breaching what you consider commercial-in-confidence issues, could you provide the committee with a description of the range of products that your company provides?

Mr Jones—No problems.

Senator LUNDY—Thank you.

CHAIR—I think we have resolved the in camera session. I thank you very much, Mr Jones, and I especially thank Mr Taylor, who has travelled across the world to be here today. Your evidence has been very helpful and useful and we valued it very much. Thank you for your written evidence and for your demonstration.

Mr Jones—It was our pleasure. Thank you very much.

CHAIR—While we are waiting for the next witnesses to come forward, I inform the committee that AOL now regret having given details of their Australian membership figures. If it is the wish of the committee, they have requested that we expunge the figure from the *Hansard* and ask that it not be reported. I am aware that the latter request may be more difficult than the expunging process. Nevertheless, if it is the wish of the committee, we will do that. Is there a motion to that effect?

Senator LUNDY—Is that under the same claim of commercial-in-confidence?

CHAIR—Yes.

Senator LUNDY—On that basis, I think we have extended the same courtesy to the previous witness, so it is important that the committee be consistent.

Resolved (on motion by **Senator Bishop**):

That this committee expunges from the record the membership figure used by the AOL witnesses.

[5.20 p.m.]

CARRUTHERS, Mr Luke Alexander, Secretary, Internet Industry Association

CORONEOS, Mr Peter, Executive Director, Internet Industry Association

WARD, Mr Michael Francis, Director, Internet Industry Association

CHAIR—I now welcome members of the Internet Industry Association. The committee prefers that all evidence be given in public but, as you have just heard, there is a capacity for us to receive evidence in camera. If you wish to answer a question or make a comment in camera, please ask us and we will consider that request. We have published your submission. Is it the wish of the committee that the submission now be made available? There being no objection, I so order. I now invite you to make some further comments to add to the submission that you gave us last week.

Mr Coroneos—Thank you. We appreciate this opportunity to return today to bring further evidence. As the committee would have noted, we have now had the opportunity of drafting a submission which we have tabled. In addition to this, we will be tabling a further document for the consideration of the committee this afternoon.

I think we agreed or understood last time that we were not, at short notice, able to provide much technical expertise on matters arising from the bill. But we are fortunate this afternoon in having our secretary, Mr Luke Carruthers, with us. Luke is, among other things, a network engineer and is probably in a position to take questions that we might otherwise not have been in a position to answer at this point.

As we pointed out in our previous oral evidence, in general, the Internet Industry Association supports the objectives of the proposed legislation. It is our concern, as representatives of what is emerging as a mainstream industry in Australia, that concerns that are evident in the community be addressed. We do this not only because we believe it is objectively right that we take heed of concerns but also because of the obvious marketing considerations that are likely to be of concern to our members.

However, as our submission documents, we do have problems with the implementation of the government's policy approach. In particular, we have a problem with regard to the provisions which appear to mandate some form of compulsory blocking or prevention of access of material which is sourced not within Australia but from overseas.

The issue of proportionality is an important one to consider here because the legislation is far reaching in its effects. As other witnesses have already stated, the potential effects on the industry are widespread not only in respect of the emerging e-commerce industry but also—particularly as stated by representatives of the Australian Consumers Association—because of potential implications with rates of uptake and accessibility of the new technologies by Australians. Indeed, I believe that representatives from Young Media Australia today also pointed to the concern about a divide in society between the information rich and the information poor. We are quite concerned that any mandated blocking

technologies which may have a bearing on costs would further alienate those who, for financial reasons, may not be in a position to take Internet access at this time.

A point which has been raised by members of the committee in the last few days—and, indeed, it appears to underlie the policy concerns of the legislation—is a proposition that there is widespread concern within the community about the availability of material which children may access online. While we do not dispute that a perception exists, we would draw the committee's attention to some statistics which we have managed to gather from one of our members over the last few days. Indeed, it was *www.consult* who provided these, and we heard from their representative earlier this morning.

I refer the committee to the page immediately following page 28 in our written submission. This table documents the results of two questions that were put to 25,089 respondents, or Internet users, in January 1999. We are particularly interested in the results of this survey. Question 16 put to the respondents or participants in the questionnaire: do you think the government should censor the Internet? The reply to that in 62.9 per cent of cases was: I think parents should be responsible for their kids' Internet use. This compares with 22.5 per cent of the respondents who said, 'I do not think anyone should censor the Internet.' This was followed a fair bit down the list by 9.9 per cent of respondents saying, 'I think the government should censor the Internet.'

If we combine the respondents who answered 'parents' or 'nobody', that gives us a total of about 85.4 per cent of 25,000 people saying that they believe that either parents or nobody should censor the Internet. This is quite an astounding result, particularly given the wide ranging nature of the legislation. We just wonder on what basis the government believes what we consider to be quite heavy-handed legislation can possibly be justified.

Let us move to the second question that we tabled here: 'What is your single biggest concern with using the Internet?' I flagged this material last week and I did promise—I took on notice, in fact—to supply these statistics. Again asking 25,089 people the question, 'What is your single biggest concern with using the Internet?' the statistics show as follows: 21.1 per cent said 'security of financial transaction'; 20.9 per cent said 'cost of Internet access'; 15.2 per cent said 'privacy of individuals'; 14.1 per cent said 'response times'; seven per cent said that they had no concerns; and finally—although the list goes on—5.8 per cent said that the issue of inappropriate or indecent material was their single biggest concern. That 5.8 per cent follows seven per cent who said that they had no concerns.

So, again, we table this really to make the point that, if we are to see legislation intended to complement industry self-regulation, it should be on the understanding of what the actual concerns are as opposed to what people say the concerns are. I might reinforce that point by referring the committee to page 9 of our submission. This is a documentation of the complaints that have been received both by our association and also by two of our larger members. The results were as follows: in the past 12 months, neither the Internet Industry Association nor AIMIA, which is our affiliate organisation and the co-submitter of this submission, has received a single complaint from any member of the public concerning the availability of pornography on line.

In addition, when asked, Optus Cable and Wireless reported to us that of 61,000 telephone contacts received in the period March to April 1999—that is the two months just gone—only 15 mentioned pornography at all. Of those 15 calls, eight were complaints about unsolicited email, which is advertising material involving adult material, generally known as spam. In this case, it is adult oriented spam. The remainder were general questions that related to pornography in some other way—for example, ‘Why can’t I get access to this porn site that I am trying to log into?’ Of the 61,000 complaints logged, Optus reports that no recorded calls were complaints about the availability of pornography in general.

In addition to this, we asked OzEmail to come back to us with some statistics. I believe Mr Michael Ward, my colleague who is with us today, was asked the same question and OzEmail’s complaint handling people came back to us and told us that, of the 20,000 to 25,000 contacts they received per week from customers, in aggregate over the 12 months to April 1999 complaints concerning online content available through the OzEmail service consisted of three emails concerning bestiality, three emails concerning paedophilia and only six emails concerning the availability of pornography generally, other than complaints about adult spam. So you can see that it is easy for people to say that there is widespread community fear of material which their children may access, but when we actually asked the question and ascertained through qualitative and quantitative research what the dimension of the problem is we see that the problem is really much more a fear or a perception of those who are not using the Internet as opposed to those who are.

I might direct the committee to the page after the first page that I mentioned—in other words, the second page after page 28. I am sorry that I could not number the attachments, but they came from other sources. This was attachment 1b. When you ask non-users the same question—that is, what is their biggest single concern—21.7 per cent said they had no concerns with using the Internet, 20.9 per cent were worried about cost—and remember these are people who have not used the Internet but intend to at some stage—and 16.2 per cent listed inappropriate or indecent material as their single biggest concern. Again, we make the point that, while the industry is taking it seriously, I do not think we should allow ourselves to justify what is, in the opinion of many industry participants, legislation which is very difficult—probably incapable—of implementation on the basis of some broad, generalised, ethereal perception that there is a huge problem in the minds of consumers out there. That is the point that we make there.

In balancing the actual concerns against the solutions, we have to look at what the market has already come up with. We have heard today from AOL and from Clairview regarding products that they have independently developed, not under any pressure of legislation but in response to concern. Notwithstanding that it is not a broad generalised concern, it is still a concern. They have developed products which, for all intents and purposes, provide people with easy, cost-effective solutions. To the question which was raised last week that parents do not have the capacity to take control of what their children access online in the home, we would say that here are two examples of very simple, cost-effective solutions that can be implemented. We would augment that by pointing the committee to attachment 3, which is about half a dozen pages after those tables to which I referred you. We have another 12 or 15 examples of products of services which are currently available in Australia today for those parents who do not believe they can adequately supervise their own children’s conduct online. To summarise the point, we are saying the

evidence suggests that this is not of huge community concern and that tools are available for those who are concerned.

One further issue is where the responsibility should lie. IIA has always taken the view that there is some responsibility on the part of industry in these matters. Our code of practice—although it is not finalised and we do not have the entire industry signed up to it now—has probably done what no other industry association in the world has yet attempted, and that is to implement a regime within jurisdiction that provides for the removal of content hosted within jurisdiction that is, in the opinion of a relevant authority, likely to be illegal. In addition, we mandate within our code that those people who are offering adult services within jurisdiction take steps such as adult verification, segregation and labelling of content to ensure that children are protected from that. We make the point that we do take this seriously.

In a media release of 7 April 1998, the Hon. Richard Alston, the then Minister for Communications, the Information Economy and the Arts—and this is attachment 4 in our submission in regard to the launch of one of those market solutions that are available—made the following point:

‘The KAHooTZ site . . . fits perfectly with the Government’s policy on Internet regulation—the creation of an effective regulatory regime to maintain community standards, and the provision to parents and guardians of the tools they need to fulfil their obligations.’

Again we have clear recognition from the government that this is not just industry’s problem and it is not just the government’s—it is a shared problem—and the government was welcoming the extent to which industry has developed some solutions. We wonder then when we look at the legislation and see there has been a distinct elevation, as it were, of the obligation why it is that, in the light of all of this evidence and a recognition by the government of where the joint responsibility lies, we are now seeing a proposal which seeks to mandate the prevention of access to content which is outside a jurisdiction.

Madam Chair, I will not go on for too much longer because I understand there are questions that people wish to ask. However, we have tabled this afternoon a document, which emanated from the office of the Prime Minister and is on the Internet, entitled ‘Australia-United States Co-Operation on Electronic Commerce.’ This was an announcement of the future cooperation on electronic commerce after discussions between the Prime Minister and the President of the United States, Bill Clinton. About two-thirds of the way down the first page the statement reads, among other things:

Australia and United States have reached agreement on key policy principles of private sector leadership, minimum government intervention and self-regulation wherever possible.

Then if I can direct the committee to page four of that document where it deals specifically with the issue of Internet content, the statement reads:

4. Content

A. The internet is a medium for promoting, in a positive way, diffusion of knowledge, cultural diversity and social interaction, as well as a means of facilitating commerce. Governments should not prevent their citizens from accessing information simply because it is published online in another country.

It then goes on, in recognition of some of the solutions, to state:

B. Empowerment of users, including parents in relation to material which may be unsuitable for children, should be achieved through information and education, as well as through the availability of filtering/blocking systems or other tools. Industry self-regulation will assist in the promotion of content labelling.

C. Industry will need to deal appropriately with complaints about prohibited content. We encourage international cooperation . . .

And so on. There we see a statement of intent between two governments: the government arguably which has the benefits of an industry pioneering Internet development in the world; and Australia agreeing on what the priorities ought to be. When you look at that and then you look at what the legislation is actually saying, we are quite concerned about the unintended consequences in respect of bandwidth, of costs and of triggering an anti-avoidance culture. This is something that was raised last night when I received an email from an ISP, which said that this regime:

. . . would cause a new industry to emerge providing software to make circumvention of new laws easier and more user-friendly. Currently, activities like encryption, spoofing, proxy forwarding, anonymisers, non-standard port use, etc are beyond the reach of the average user. Censorship will create a demand for software that automates these procedures. The Government will have even less control of the Internet.

It goes on to talk about how this will not only empower people that would be otherwise accessing material that was perfectly legal but also those who wish to pursue more nefarious objectives.

We say that the legislation will not solve the problem any better than what is already occurring at the moment in the marketplace and with industry cooperation through voluntary codes. Finally, we are most concerned that, while we have done this work to try to bring industry with us on accepting levels of responsibility on these difficult issues, the more onerous the legislation is the more difficult it will actually be for us to secure the necessary support so that our role in a co-regulatory regime can work.

CHAIR—Thanks, Mr Coroneos. Senator Harradine, would you like to ask any questions?

Senator HARRADINE—I am sorry I was not here for that presentation but I did have the documentation. Mr Coroneos, what percentage of the 630 ISPs does your organisation represent?

Mr Coroneos—At the moment I believe we have about 50 or 60, those being the major ISPs in this country. If you include Telstra, Optus and OzEmail we represent well over 50 per cent of the dial-up market and then we represent a range of medium size and small size players. We certainly do not represent every ISP in this country. That probably is a reflection of the fact that many of them are one- and two-person operations that at this point do not see any particular benefit in joining an industry association.

We presume that further reflects the fact that many of them are very young who have come at this from a technical angle. In fact, many of them have developed this as a hobby. My colleague Mr Carruthers got together with three mates a few years ago and started up a very successful operation. But it just shows there is a youthful element here. I am not implying in any way that Mr Carruthers is not a responsible industry player; I am saying that the profile of the industry is such that we would not anticipate that we will get a large number of people joining.

If I can add that the Telecommunications Industry Ombudsman, who administers the complaints regime under the Telecommunications Act whereby all carriage service providers—and that includes ISPs—are required by law to join the scheme, has had a great deal of difficulty getting them to do that. And that is a statutory requirement. In fact, the ACA had to go out issuing writs to get people to join his scheme. So you can see that, in that kind of situation, a voluntary association is not necessarily going to catch everyone.

Senator HARRADINE—I was only just asking the question. Would you agree that the industry—the ISPs or, for that matter, the content providers if you can get them—do have responsibilities to their clients, to the general public, as well?

Mr Coroneos—Absolutely.

Senator HARRADINE—You have heard the statement by the CLC director and also the questions that I have been asking. What is the problem in having some sort of universal service obligation on the ISPs to provide effective blocking software? I understand that is a doubtful point—I do not want to go into the question of what is effective—but what is the problem with requiring ISPs to be licensed?

Mr Ward—I think there are only two issues, really, in answering that question. Of course, there is no problem with conforming with any law that is required to manage a business in this country, but the costs are twofold: there would initially be commercial costs in terms of adhering to any legislative regime that required universal filtering and, if you were to try to base the collection of revenue on the basis of the USO, then I think we would be in the same situation we are in with the telephone system's USO, given that Telstra earns most of the revenue from the Internet access market in this country.

Secondly, I think the *prima facie* reason that the Internet is attractive to people is that people have choice. The Internet as a medium has come about and has been popular because it provides people with choices to make decisions on their own behalf rather than having programmers, editors or other filters determining what they do and what they see. It has certainly been a strong part of the history of the Internet that that level of choice, that flexibility and that freedom has seen it grow and prosper in ways that no-one could have predicted.

Senator HARRADINE—I am sorry, Mr Ward, we must be at cross-purposes. I was simply asking: what are the problems about requiring ISPs to register and, as a condition of registration, to have this software available—just for argument's sake; I do not necessarily support this—to end users if they so desire to use it? What is the problem?

Mr Ward—Certainly, as an Internet player—I represent OzEmail—I do not think we would see that as a problem. The question is: why would you require that? What would be the issue in trying to require that? What would you hope to gain by requiring that piece of bureaucracy and red tape?

Senator HARRADINE—Would you not think that the basic premise of the industry should not simply be to make money? That is obviously it, but that should not rule out your social obligations, either to your customers or to the community as a whole.

Mr Ward—There is no question of that.

Mr Coroneos—I would like to pick up that point. What we are seeing—and, in fact, the attachment to our submission documents this—is a wide range of software which is already provided either free of charge or at very low cost to a large number of Australian Internet users.

Senator HARRADINE—I understand what is there. But I am just asking you a simple question, and if you cannot read what I am saying, that is a problem.

Mr Ward—I do not see any problem with an obligation.

Senator HARRADINE—That is, requiring the ISPs, as a condition of a licence, to provide effective filtering software to their clients.

Mr Ward—To provide the option, or to provide the filtered service?

Senator HARRADINE—You would need to recognise, at this stage at least, that the end users in many cases are not as computer literate as one would have hoped.

Mr Ward—Then I think our objection would be that we see no justification for that in terms of either the concerns of people currently using the Internet, as evidenced by the figures we presented today; the concerns of people who are yet to use the Internet, but intend to use the Internet, given the surveys that we have presented; or the concerns of those people who have avenue to complain and have not chosen to do so to any of the major players of the industry. We see no level of concern that would justify requiring that level of effort of the entire industry.

Senator HARRADINE—You are really not answering my question. Just going to the point of Mr Marzbani's survey, that certainly did not line up with the information that we were provided with today by America Online.

Mr Coroneos—With respect, their evidence was the global position, not what is happening in Australia. This is Australian evidence.

Senator HARRADINE—So Australians are different?

Mr Carruthers—The figures quoted by AOL, I believe, that some 80-plus per cent of their family users use a parental supervision system does not necessarily relate directly to the

idea that some sort of parental supervision is a direct concern for many people. For much of the software that is provided to AOL users in the US—I am not personally familiar with the software provided to AOL users in Australia; it may be identical—it is very easy to simply click a button and have that parental supervision option enabled. It is not necessarily a considered option or, indeed, an option which necessarily has any ramifications for their understanding of the sign up process. So, just because people check that option, it does not reflect that there is a great concern in the marketplace reflecting a need for some sort of legislation. Furthermore, it might be that the provision that AOL and others have made in the marketplace entirely satisfies any concerns that are there. Indeed, the people who have these concerns will use this sort of service.

Senator HARRADINE—Mr Carruthers, the question, ‘Are you concerned about X material going through the Internet now, and particularly in the future?’ was not asked by Mr Marzbani. By the way, do you know what type of material we are talking about when we are talking about X material?

Mr Carruthers—Yes.

Senator HARRADINE—You do? Afterwards I will show you a bit if you do not. Are you sure that you do? Did Mr Marzbani ask the question?

Mr Carruthers—I believe his questions were more directly related to censorship rather than, particularly, illegal or other material.

Senator HARRADINE—Exactly, but some people would not consider that to be a question of censorship.

Mr Coroneos—In fact, question 17 in his survey was about inappropriate or indecent material: ‘What is your single biggest concern with using the Internet?’ And one of the options given for response was presumably the availability of inappropriate or indecent material which—

Senator HARRADINE—I do not know whether I would not have responded accordingly; I have some problems with the Internet itself. I will not go into who is the service provider—although I might have done six months ago when I was having a bit of trouble—and the service provider is a fine organisation. What about the accessibility of material, like extremely violent interactive material available to children on the net? I will guarantee that if Mr Marzbani had asked the people online those sorts of questions and also asked them whether they had children, there would have been a very substantial number, I would suggest, who would express concern and seek to do something about it.

Mr Coroneos—Senator, I do not think we are disagreeing with the basic proposition here that there is material on the Internet which we, as industry people but also as parents, would prefer our children not to see. The question is how we best implement some sort of control there; it is not that we condone what is there.

Senator HARRADINE—So what is wrong with requiring age verification with respect, for example, to extremely violent R material?

Mr Coroneos—In fact, we would support that. We will not say there is anything wrong with that. We believe that our code makes it clear that where material is available which is considered unsuitable for children it ought not to be accessible except through age verification procedures. So we agree with that; it is just a question of how.

Senator HARRADINE—You agree with it, but you represent eight per cent; many of the organisations which are making money out of that type of material do not, obviously.

Mr Coroneos—They are making money out of providing access to the Internet. I do not say that they would see themselves as making money out of providing access for children to pornography.

Senator HARRADINE—Are you suggesting none of the content creators—

Mr Coroneos—I thought you were talking about the ISPs.

Senator HARRADINE—Are you suggesting that none of the content providers are also ISPs?

Mr Carruthers—Content providers and ISPs are distinctly different entities. They perform different functions and they are very rarely one and the same organisation.

Senator HARRADINE—I am asking you whether they are. Are there such—

Mr Coroneos—To the extent that ISPs are content providers, usually it is in respect of more informational material on their own web sites. They might combine news services, weather, sports or something else; they try to create somewhat of a portal site for their own users. OzEmail has a very fine site with a lot of reasons for people to keep going back there which they managed to integrate. They realised that providing connectivity is only one thing that they do. In terms of adult content, I cannot recall any ISP in Australia—although I cannot say that I have checked every one of their sites—that would at the same time be an ISP and also the provider of adult content.

Mr Ward—Thus our concern in the submission that the legislation is silent on the responsibility of those who place content on the Internet and focuses on those people who are in a position to provide access to that content—the content hosts or the ISPs—but fails to take account of the primary responsibility of those people who actually put the content on the Internet and who, for example, under the copyright regime currently being contemplated by the government, are primarily responsible for the nature of the material they place on the Internet.

I think the broader question though, Senator, is that Internet service providers have been actively making moral choices in the absence of any regulatory environment, on the basis of complaints received, on the basis of discussions—however formal or informal—with relevant government authorities such as the ABA or the Child Protection Unit in New South Wales or, in the other states, different child protection agencies and the Australian Federal Police. I guess our point is that there have not been a lot of those. As the submission says, in OzEmail terms there were three on bestiality, three on paedophilia and half a dozen on

generic pornography. The rest only related to spam and pornography; several hundred were about being spammed by pornography sites. This was out of what amounts to several million communications with our clients. There is not a lot of concern, from people who use the Internet, expressed to us about pornography. The main reason for that is that the technology allows people to ignore it. They can make that choice anytime they wish.

Senator HARRADINE—Are you interested in understanding that people are contacting their members of parliament? You hear this quite frequently around the traps, particularly from harassed and hardworking mothers—whether they be single mothers or in a poorer family—they try to do the right thing by their kids and they do have problems with it.

Mr Coroneos—There is the nub of the problem. I think if there is a problem here at all, it is a communication problem. It is an education problem. The fact is that the solutions are out there. People just do not know about them and if there is an issue—

Senator HARRADINE—You tell that to a hard-pressed mum.

Mr Carruthers—Indeed, if she does call up, she can be told to contact her service provider who will provide her with the capability she needs—again, often at no charge.

Mr Coroneos—The suggestion made today of perhaps requiring all modems in Australia to be accompanied by some material—therefore ensuring that people do not have the experience of having to subsequently go back and try to find answers to these kinds of questions at point of sale—is one thing that we would certainly, as an industry, consider as something we could do to augment this.

Senator HARRADINE—So you would not mind an amendment to this legislation which requires the registration of ISPs and that they supply the relevant software?

Mr Carruthers—There are a number of issues such as compliance costs and so on that are associated with the registration and licensing of ISPs. I think that needs to be addressed as a separate question. But, certainly, making information available is something that we have no objection to at all.

Senator HARRADINE—The answer to my question is no, is it?

Mr Carruthers—No. I do not think that was a negative answer.

Mr Coroneos—I think we were talking in relation to whether licensing should imply or come with an obligation that this material be supplied. The answer is that this is a proposal that has only just been put, and I believe that while it may have merit, it is something that we have to take back to industry.

Mr Ward—As an industry association we would have no problem actively supporting the provision of information for all Internet service providers and possibly facilitating the distribution of that information in the welcome email that most Internet service providers—if not all—provide to their customers at the opening of their account. So the first email people receive could provide them with a link directly to a site where they could see this

information, and we could provide them with the complaints mechanisms that are envisaged in our code.

Our attempt here is not to try to undermine the intention of the legislation. Certainly in Australia we have been leading the development of procedures to deal with these problems. Our attempt here is to try to make a rational approach to solve the problem on a global basis. With the greatest respect to Mr Jones and Clairview, if we could all make a lot of money out of this and it was not going to cost us anything, we would be happy for the legislation to say that too and we would all stick in Internet Sheriff. But that technology is yet to be proven. We are all working on commercial products to satisfy that market, and they are listed in our submission.

Mr Coroneos—If you take the three biggest Internet access service providers, in fact four if you consider Connect, which is about to offer Internet Sheriff—we have Optus, which provides Net Nanny for free; we have OzEmail, which provides CyberPatrol for \$14.95 a year; we have Telstra, which provides KAHooTZ—which is a slightly different product but nevertheless something that directly addresses some of these issues; and we now have Connect.com.au, which has announced publicly that it will be implementing Internet Sheriff for itself and for the 150 downstream Internet service providers that it supplies connectivity to. I would think that, even at this present time, in the order of 70 per cent of the market would be covered by either free or very low-cost solutions.

Senator LUNDY—I just want to clarify something. In attachment 3 of your submission you list—and I think this was actually in response to a question from the committee earlier last week—a whole series of industry measures currently in place to provide a choice in control for Australian Internet users. Listed there are: Net Nanny; CyberPatrol; ANZwers—and I note that this is proposed to be a clean search engine offered by email, coming online in June 1999—Internet Sheriff; KidzNet; Cyber Sentinal; KAHooTZ; ChoiceNet; Smart Filter; iseek; Bess; I-Gear; et cetera. I have a point relating to the previous witness. In that whole gamut of things, we heard from the previous witness that Internet Sheriff is somehow special and different. In your view is it, or is it just one of a whole range of products that is available to end users or ISPs for the purposes of filtering or modifying what end users have access to in terms of content?

Mr Carruthers—Really, it is just one product in the whole gamut. It might implement a slightly different method of achieving its aims but its aims are common.

Senator LUNDY—Thank you. I have a series of questions and the first one refers to your attachment 1, the results of the Internet user survey, and the series of questions under the heading, ‘What is your single biggest concern with using the Internet?’ Going to the current government’s legislative agenda, the only legislation I have seen that relates to facilitating the use of the Internet, recognition of convergence of technologies, transferring of financial services or any legal equivalents to an online forum as opposed to a traditional forum have not been legislated on.

So out of pending security of financial transactions: that is, digital signatures legislation; cost of Internet access—that is another policy area again, isn’t it, competition policy?—privacy of individuals, and we are yet to see any legislative activity with respect to privacy

of citizens in this country with data held by private organisations; response times—again, a competition policy area; and we then get down to the inappropriate indecent material and we actually have legislation. Can you provide some comment from an industry perspective on the relative priorities of the government in addressing the needs and concerns of the online community?

Mr Coroneos—That is a big question, Senator. The short answer is that we are seeing activity on some of these areas and not on others. The security of financial transactions I believe is being addressed through things like the gatekeeper project, but that specifically, at this point, in respect of transactions with the government, follows the Prime Minister's announcement in December 1997 about a framework in which e-commerce, using the government as a role model, could be used to stimulate activity in the whole area.

The cost of Internet access, as you point out, is a competition issue and it is an international issue in some respects as well because of the cost of trans-Pacific traffic and so on. I think Mr Carruthers is probably better qualified to speak about what the issues are there but, certainly, that is a complex problem. As you point out, and as the study shows, the second highest concern in the minds of Internet users is what they are paying compared with what people are paying in America. I think we could probably even say that there was a pretty direct relationship between costs and rates of uptake.

Privacy is another area in which we have been quite active. We wrote to the Prime Minister last year, and I believe it would not be too immodest to claim some credit for the fact that the government has now agreed to legislate on privacy. But to complement codes of practice, we are seeing a co-regulatory regime developed. This is an area in which I think Australia is starting to take a bit of a pioneering role. The US is not big on co-regulation. I believe the European experience tends to be of more top-down legislative interventionist solutions, as we have seen with their privacy directive, whereas in Australia we are looking at new territory. I think, whether it be by accident or by design, this co-regulatory framework has the potential to do very well in a fast moving environment like the Internet. What we do say, however, in respect of this present bill, is that you have to make it achievable—for us to hold up our end of the bargain, the other end cannot be too onerous.

Senator LUNDY—On the point of privacy legislation, I am interested in exploring some of the issues of the impact of the technology we have been discussing in providing solutions to the censorship issue and the impact on privacy. Could you describe for the committee's benefit some of the back-end applications that monitor how different end users use the Internet?

Mr Carruthers—That is a very difficult question to answer without getting very technical and detailed and spending a lot more hours than we might have available to us. I will generalise a little in response and say that there are lots of different types of records kept about an end user's use of the network. They range from things like proxy logs that record what URLs are requested by a user, how they are fetched and what response the proxy gave to that. There are things such as the amount of data and type of data transferred that are often held, in an aggregate sense, at various points around a service provider's network and sometimes, in a specific sense, at the boundary of a company network. Often companies need to do this sort of thing for charging back to various departments. A common

misunderstanding is that it is often very difficult, sometimes impossible, to tie all this data together into a single common profile of what a particular end user is doing. Certainly technology enables it to be done, but you need to make allowances to enable it to happen.

Senator LUNDY—Is that technology currently available?

Mr Carruthers—Yes, it is. In fact, it has been available for years and it is not particularly difficult technology to do. It is simply that it is not often done. Often it is much more useful to the service provider to have a specific set of data that is manageable, accessible and can be analysed easily rather than an overall aggregate of data that might tell them only a little more but costs a lot more to put together.

Senator LUNDY—I have two questions. First of all, does the introduction of proxy service into the network, as has been described by a range of the solutions, offer a greater opportunity for the collation of information about the habits of end users?

Mr Carruthers—Yes, it does, but it is very rarely used for that, partly because it would require the matching together of certain other records such as user access times, user access points and so on to identify a particular URL request to a particular user, and partly because it is quite obviously an invasion of privacy, and there are very few service providers who want to go anywhere near that issue.

Mr Ward—And also because it would take a bucket load of boxes and cost a fortune to house and analyse the data.

Senator LUNDY—The parliamentary network has a firewall operating, and any external sites we go to on the parliamentary network are logged. If it happens on the parliamentary network, I assume it could happen on any ISP network or corporate network or, indeed, community network.

Mr Carruthers—Indeed, a primary function of firewalls is to log activity.

Senator LUNDY—Right. Do ISPs have firewalls?

Mr Carruthers—Some do and some do not. It is extremely rare that you will find an entire ISP's customer base behind a firewall. That is not practical in terms of performance or manageability. Similar arguments have been put about the practicality of putting an entire ISP behind a filtering mechanism—that is all a firewall is; a type of filtering mechanism, or at least certain types of firewalls are. It is very rare that that happens. Often an ISP will, in response to customer demand, put a particular service offering in place that offers managed secure access.

Senator LUNDY—Which is what we are talking about in all of these solutions that you have listed, I presume.

Mr Carruthers—Yes. Many of these solutions are not network based, they are user based or they are client based. Net Nanny is an example—it is a piece of software that runs

on the client's computer. It references particular bits of information out on the Internet to do its job, but it is not run at a network level.

Senator LUNDY—With respect to solutions that are run at a network level via the use of a proxy server, what would the IIA's position be if it were mandated within this bill that such a service be offered to clients but not, in the first instance, mandated to provide it to clients?

Mr Carruthers—We would be quite supportive of encouragement to offer such a service. Where it would become problematic would be mandating that every ISP has to do it, and in particular that every ISP has to do it for every client. It is certainly something the market has done, by and large of its volition. Most ISPs, if not the vast majority, have some sort of filtered service profile available.

Senator LUNDY—On that point, I do not know whether this is a conclusive list or whether there are others available.

Mr Carruthers—No, it is certainly not comprehensive.

Mr Coroneos—In fact, I neglected to include in there AOL, which is also a member of our association. For the purposes of *Hansard* we should note that AOL does offer a solution also in this regard.

Senator LUNDY—Yes, indeed. You are correct to draw that to our attention in the context of this discussion. In terms of the availability of all of these solutions, is there any barrier inhibiting any ISP in this country from offering a range or combination of these services at this point in time?

Mr Carruthers—There is no real cost barrier that cannot be surmounted. Having said that, an ISP that is making a loss at the moment probably does not want to add to that loss by doing things that their customers do not necessarily want. A number of ISPs have implemented these sorts of products and then taken them off the market due to lack of demand by their customers, and so I think it would be the wrong approach to mandate that additional cost burden, however slight it might be, if there is indeed no customer demand for it or if the ISP in question does not want to address that customer base that does require it. There is certainly more than enough current access, in anybody's book, to that sort of product to make it widely available.

Senator LUNDY—Referring now to the conclusions contained in Dr McCrea's report, *Blocking Content on the Internet: a technical perspective*, he cites the fact that ISPs could offer differentiated services. From what you are saying you are advocating that the actual market should determine that; the market being end users—if they want a particular form of filtering software then they find the ISP that offers it. Is that the model that you see working?

Mr Carruthers—Yes. Indeed, rather than advocating that, the market already has that. That is the existing situation today.

Mr Coroneos—That is pretty much the thrust of our case here in looking at the legislation, looking at what is happening already and looking at what kinds of outcomes we want to try to achieve here in a co-regulatory framework, and going back to the fundamentals and saying, ‘What is it that people want? Is the market delivering that? If it is, well and good. Let’s encourage it, recognise it and allow them to take credit for it. Let’s publicise it and help educate people that it is available. If it isn’t, then where are the deficiencies?’ That is the area that you start looking at in augmenting what is happening with some co-regulatory solutions. But, as we say, by any analysis these products are freely available at the moment. We believe that, if the money that was to be expended on the ABA in an enforcement role were spent on the community at point of sale or wherever else in an educative role, we would be in a position to achieve the outcomes that this legislation seeks to achieve without any of the unintended consequences.

Mr Carruthers—Indeed, it would be effective in achieving these outcomes.

Senator LUNDY—I did ask the question of Young Media Australia as to what use they could put \$1.9 million. They said it would not, in their view, be enough for such a community based campaign—which I guess puts it all in perspective.

Mr Ward—But I guess the committee does not have a view on whether \$1.9 million is enough to achieve the task which the legislation lays out.

Senator LUNDY—No, that is one of the issues we have obviously been exploring. The question of resources in relation to the ABA’s ability to actually deliver what they are required to under this bill is certainly a question—

Mr Coroneos—Perhaps the better question—sorry to interrupt, Senator—is that, irrespective of the amount, it becomes a resource allocation question in a sense. If you have got X amount of dollars to spend on a problem, are you better off using it in education and empowerment or are you better off using it in an enforcement capacity? Our view at this stage is that, combined with industry cooperation and support, putting it into education is going to give you a far better return. I believe that Ramin Marzbani made the same point this morning.

Senator LUNDY—Indeed. That is all the questions I have for the moment. Senator Calvert has some.

Senator CALVERT—You were referring earlier in your statement to the Prime Minister’s press statement and the Australia-United States cooperation agreement. I had not seen it, and I was just glancing through it. I notice that under ‘Policy Principles’ it says:

Where the market alone will not solve problems, self-regulation gives maximum control and responsibility to the individual and should be the preferred approach. In some cases this may need to be facilitated by legislation to ensure effective arrangements.

Do you believe that there are effective arrangements in place at the moment?

Mr Coroneos—The answer is to look again at what the community concern is. If the statistics that we have tabled are to be believed, then the market is adequately catering for the problem. We do not dispute that there may be some role for government, even if it is no more than supporting and giving force to industry codes, allowing them to be registered, monitored and so on—certainly to provide indemnity.

Senator CALVERT—But you have not got your code ready yet, have you?

Mr Coroneos—Pardon me?

Senator CALVERT—I recall you saying earlier that your code is still in draft form, so obviously the market has not solved its problems yet.

Mr Coroneos—That is not actually true. The point is that the code cannot be registered unless there is an authority that has the jurisdiction to register the code. We have actually been calling for this legislation—not this particular legislation, but supporting legislation—for at least the last 12 to 18 months. That is the other link that we were talking about the other night. Until that is there, it is very difficult to take it to completion. In a sense, we are all dressed up with nowhere to go.

Mr Ward—The code has been adopted and is being used by the major ISPs in this country. It is the basis on which they make decisions in relation to complaints and concerns, though.

Mr Coroneos—In fact, even by non-signatories. I had an interesting email from a member the other day that said: ‘Look, we haven’t actually told you that we have not signed up to your code. But it is a policy within our organisation that our staff adhere to the principles of your code.’ So I suspect that, to an extent, given that we have had expressions of support from the major industry players and the fact that other industry players are abiding by them, even if they have not told us, the thing is actually working.

Mr Ward—The question, though, is: really, what is it you seek to achieve? We believe that, as an industry body, we have provided a framework which gives confidence to Internet service providers about how they should proceed when complaints are made to them and a supporting structure which allows for some admonishment if that is not followed. We have, through our various organisations, stimulated a significant range of consumer products and services that are available for anyone joining an Internet service provider. We are also providing solutions for institutional clients such as departments of school education, public libraries, et cetera. So we believe we have been doing pretty much what could reasonably be required of us, short of interceding on behalf of the community and making ourselves censors, which we have chosen not to do.

Senator CALVERT—Therefore, you are awaiting legislation to enable you to enforce your code of conduct. Do you agree with the Eros Foundation that legislation needs to be there so that R-rated and X-rated material is restricted on the Internet?

Mr Coroneos—Certainly, in respect of domestic posting, our code provides for take down of this material but, unfortunately, the problem at the moment is that were someone to

comply with that particular provision, they may be subject to civil action by the owners of the material. That is one reason we think any legislation that purports to support a code of practice has to have that. This legislation does, and we appreciate that fact.

Senator CALVERT—In the agreement, under ‘Content’, it says:

B. Empowerment of users, including parents in relation to material which may be unsuitable for children, should be achieved through information and education, as well as through the availability of filtering/blocking systems or other tools—

which you have already talked about—

Industry self-regulation will assist in the promotion of content labelling—

which it obviously is—

C. Industry will need to deal appropriately with complaints about prohibited content.

So you think it is all covered.

Mr Coroneos—We do. That is all happening now. When a complaint comes to an ISP—for example, about bestiality or paedophilia material—there are ad hoc arrangements in place at the moment with law enforcement agencies and major ISPs. If this material is identified, then there is cooperation between the ISPs to help the police investigate the matter, and there have been several prosecutions in Australia as a result of that cooperation that is occurring. There is a lot occurring behind the scenes. What we are doing in our code is giving recognition, articulating the kinds of standards that good industry players are already doing. What we are trying to do is set that as a benchmark for the whole industry to follow.

CHAIR—Mr Coroneos, Mr Carruthers and Mr Ward, thank you for coming back. We appreciate the time you have given to this inquiry.

[6.25 p.m.]

CHEAH, Mr Christopher Michael, General Manager, Regulatory Framework and Bandwidth, National Office for the Information Economy, Department of Communications, Information Technology and the Arts

HOLTHUYZEN, Ms Fay, Deputy Chief Executive, National Office for the Information Economy, Department of Communications, Information Technology and the Arts

MARKUS, Mr Donald Frederick, General Counsel, Australian Government Solicitor, outposted to the Department of Communications, Information Technology and the Arts

CHAIR—I welcome back Mr Chris Cheah and Ms Fay Holthuyzen from the National Office for the Information Economy. You appeared before the committee last Thursday, and we have asked you back tonight to provide you with an opportunity to clarify any issues raised by other witnesses. Obviously we would prefer that all of your evidence be given in public, but if you want to give an answer in private please ask us. Do you wish to make a further opening statement, Ms Holthuyzen?

Ms Holthuyzen—We have got some responses to the questions that were raised the other night. We tried to get them back as quickly as possible. With that, we are not sure that they absolutely cover all the responses because we have not had the *Hansard*, but to the best of our knowledge we have attempted to do that. We have included in that a copy of the further information that the CSIRO have given us. We make that available to the committee.

CHAIR—Is it the wish of the committee that we accept that further information from CSIRO? There being no objection, it is so ordered. Would you like to make an opening statement at all?

Ms Holthuyzen—No. We are happy to take questions.

CHAIR—Mr Cheah?

Mr Cheah—No. We are happy to answer questions.

CHAIR—Senator Lundy, would you like to start?

Senator LUNDY—Yes. Perhaps officers could enlighten us as to what the further information from the CSIRO constitutes.

Ms Holthuyzen—The evidence I heard mostly this morning from the CSIRO covered some of the information in this short report. Perhaps it is easier just to talk through what their conclusions are. The particular issue they covered related to, as I think we indicated the other day, some of the cost issues relating to blocking and filtering and also some of the implications and effects on the network. As I said, I think the CSIRO covered this this morning.

Basically, the conclusions are that blocking undesirable Internet content by filtering at the ISPs is technically feasible but may require very considerable investment in computing and network equipment if user response times are not to be degraded. I will not read them all out. I will summarise them as I go through. Filtering through an adequately sized proxy server will not add noticeably to user response times. User response times will quickly become unacceptable if the proxy service becomes overloaded. Simple filtering is quite cheap to implement but will not prove very effective given the scale and international nature of the Internet. More complex filtering, such as looking for key words in URLs, will be more effective but considerably more expensive.

Selective access such as allowing adults to access adult content will also add to costs. Implementing Internet content filtering may mean reconfiguring the browsers of a large percentage of Internet users in this country, which could impose considerable costs. Internet content filtering will be easily bypassed unless quite severe restrictions are placed on Internet access, and protecting children from adult content can be achieved by providing specialised saved Internet access services. That is the summary of where they have come out, which was really an extension of the previous work that we had asked them to do.

Senator LUNDY—It does not seem to me, though, to be anything particularly new.

Ms Holthuyzen—No. The key issues that come out of that are that things are technically feasible but provided you have sufficient computer capacity, which obviously costs money, then the net should not be degraded. It is really saying that degradation should not occur provided you have plenty of computer capacity.

Senator LUNDY—I am curious as to this definition of ‘technological feasibility’, because it has been a commonly used phrase in a range of contexts. One of the points of differentiation that still exists which we have heard from every witness so far is that, yes, of course blocking technology is out there and around. Is your measure of technological feasibility a measure related to a 100 per cent success rate in actually providing an effective block?

Ms Holthuyzen—No, Senator, it is not. I think the government has said that all along. We accept that 100 per cent blocking is difficult.

Mr Cheah—In fact, the legislation actually says ‘take all reasonable steps to prevent’. The idea behind using ‘reasonable steps’ is to take account of the technological level, the costs to ISPs and also what is reasonable in all the circumstances. That is one of the reasons for using that aggregate test.

Senator LUNDY—I just wanted to clarify it. It is nice to come to that at the end of the hearing. It has obviously been the cause of some confusion. The implication has been that the description of ‘technologically feasible’ has been advocated on the basis of providing a genuine solution; whereas all the evidence we have heard is that there are no ultimate solutions and that there are always various measures of success, as we heard from Clairview. They said that allowing for a degree of error within any filtering or blocking technology is a question of judgment and descriptive parameters that you place around what you want to filter out. Would you agree with that?

Ms Holthuyzen—What I said before is that the government has said that it accepts that there are some difficulties in that perhaps 100 per cent is not possible, but there is a balance between protecting children in terms of access to particular sites and the reverse side, too, of making sure that we are not putting too many onerous and unjustifiable burdens on the industry. So it is a balance. At the end of the day, people have to make those judgments. We do not expect it to be 100 per cent perfect, but we do expect that it would improve the position.

Mr Cheah—The government has always said that there is not going to be an absolute 100 per cent answer to this, but what we are trying to do is really make a difference. The government thinks that the four-tiered strategy we presented to the committee last time, taken together, is going to make a difference.

Senator LUNDY—Oh, yes. I know what the government's position is.

Senator CALVERT—But you must have been encouraged by the evidence we have had today and previously about the range of products that are available which gives people the tools to do exactly that.

Ms Holthuyzen—That is right, Senator. I think that is why the government has asked the industry to develop the codes of practice and for the industry to come up with what the major solutions are, because they are the people who are best able to do this. Those codes can also take into account changes in technology as we go along, and new technologies that come on the market can be quickly implemented into the codes.

Senator LUNDY—We heard evidence today from Young Media Australia. They had funding from the federal government nearly two years ago now that was not continued despite them applying for an \$80,000 grant per annum for three years to provide a parental kit and education system for parents trying to educate themselves about the net. Why wasn't that organisation funded?

Ms Holthuyzen—I do not know the answer to that, Senator.

Senator LUNDY—Could you take that on notice? Perhaps I will have the opportunity to pursue it in estimates later this week, but I raise the question on the basis of the emphasis you put on the need for parental education. You identified that as one of the four elements of this legislation which was important to the government, yet today we heard evidence from one of the few examples of a federally funded initiative to educate parents who were not able to secure support from the minister or from the department to continue to fund what seems to be a very sensible and practical thing for parents.

Mr Cheah—We think that the funding which Young Media Australia received was from the Australian Film—

Senator LUNDY—No. They cited different funding. They did receive funding from Film Australia and another source, but there was also a \$100,000 grant from the department in relation to this specific project. They do attract funding from other organisations and have recently embarked upon a cost recovery process to try to continue their good work.

Ms Holthuyzen—We will take that on notice, Senator, and get you an answer.

Senator LUNDY—Can you offer the committee any other examples where the federal government or the department have actively or proactively endeavoured to educate parents specifically about filtering information or offering guidance on how to do that?

Mr Cheah—The Australian Broadcasting Authority has a web site.

Senator LUNDY—That is no good for people who are not on the web. What have they done for people not on the web in the same way that Cybersafety offers a course for parents who are contemplating going online? Is there anything at all that the department has done in this area?

Mr Cheah—We will take that one on notice, Senator.

Senator LUNDY—I think the answer is no.

CHAIR—I am not sure whether you were here, but earlier today the EROS Foundation made an allegation that there is the possibility that the legislation is in breach of section 51 of the Constitution. Are you able to give us a view on that?

Ms Holthuyzen—Yes, Senator. We do not believe that is true. We heard the question, so we have asked Don Markus from the Attorney-General's Department if he could give you an initial view, if that is okay.

Mr Markus—As I understand it, and correct me if this is not the particular issue that you are interested in, the issue was raised that this legislation in this present bill would be unconstitutional on the grounds that it would amount to an acquisition of property without just terms. I do not really think that there is a significant issue raised there. The legislation in its broadest sense requires some people to do certain things or requires that they not do certain things. It does not have anything in it that I am aware of that would involve property being acquired by anyone.

The case law on acquisition of property has said that, in some cases, if something in the nature of property right is extinguished and somebody else gets a corresponding benefit, there would be an acquisition of property, but it is difficult to see that here. What simply happens is that certain conduct in relation to Internet content is regulated. So in certain cases, depending on the business that people have, they may incur certain costs in complying with its obligations or they may lose some revenue from the kind of business that they were operating but that, of itself, does not amount to an acquisition of property for the purpose of the Constitution, in my view.

CHAIR—Thank you very much for that answer. I just have one more question of clarification. This morning CSIRO talked about how network speed would be slowed down if we were to use proxy servers and cache material. Do you have any comment to make on that or is that covered in the extra CSIRO material you have just made available?

Ms Holthuyzen—There is some material covered in the extra material provided from the CSIRO. One of the sentences they have in their report basically says that the added impost of 50 milliseconds to 100 milliseconds per web transaction, which were the sorts of numbers they were talking about, is unlikely to be noticed by users and would be offset by some of the positive effects of any caching that is done by the proxy. They are saying that there is an offset in the sense that, if the material is in a proxy server, you can get the material out of the proxy server without having to go all the way through the Internet to the actual site. So there is some saving there.

Senator LUNDY—It is a technical point with material that is not content based—that is, not cached on a proxy server—but relates more to transactions or immediate real time activities on the Internet. Is there any assessment as to the impact of the time delays and the increased costs that come with time delays?

Mr Cheah—I do not think the report specifically identifies that particular issue.

Senator LUNDY—But I think that was the complaint—that it actually affected that sort of real time quality of service because of the channel it went through. The complaint was not specifically related to cached science but actually that initial download point on a packet by packet basis.

Ms Holthuyzen—The only comment is really what I said before—that is, generally provided there is sufficient or a large amount of computer capacity, this filtering does not really degrade the network speed. That was the general impression from the report.

Mr Cheah—One general point the CSIRO made is that there is not a lot in the literature about the effects of proxies on network speed, so it was difficult for them to make judgments one way or the other. The report used a case example of Ozemail and worked through that example in a fair degree of detail and then drew some general conclusions from that. More or less, from both sides of the debate, whatever claims are being made, it is a bit hard to test them because the CSIRO, who was reasonably independent, came in and had a look at it and was not able to draw obvious conclusions one way or the other.

Senator LUNDY—We subsequently heard evidence, though, that even a difference of 50 to 100 milliseconds on a compounded basis could actually start impacting on quality of service. If you look at it on a packet by packet issue, 50 milliseconds is not going to make a big difference, but the actual compounding effect of those reasonably minute delays on a packet by packet basis do impact on quality of service at a latter point. Perhaps I can leave with you the reference to Mr Marzbani's evidence with respect to speeds and you could provide an opinion to the committee as to your analysis of that.

Ms Holthuyzen—Sure.

Senator HARRADINE—A lot of the interactive stuff, including very violent games, is likely to have very serious effects on children. Why does the legislation not have interim orders in respect of that R material?

Ms Holthuyzen—At the end of the day, the government made a judgment in relation to the R material. I think it was a balance between the nature of the R material and the potential, I guess, administrative costs if there were many more complaints about R material because it is of much greater volume. It was considered to be a less bad category and so the effort was put into the RC and X categories.

Senator HARRADINE—I have asked about the reasons for not following the recommendations of the Senate committee in respect of the matter. I am not going to go over that again, suffice it to say that the outcome is a much weaker and light-hearted approach than that which was recommended by the Senate committee. I refer you also to the fact that a number of witnesses have inferred, and one of them has certainly said, that the ABA is a very passive regulator. Is it appropriate, therefore, to give to the ABA this task? I know that the committee did recommend that the ABA or some other organisation be the authority. I do not expect you to agree with this, but one of the witnesses indicated that the ABA was a very passive organisation.

Ms Holthuyzen—The government considered that the ABA were the appropriate organisation to be dealing with these particular issues. In this case of course, they are being given specific powers. When you talk about them being passive, in this case they actually have to be quite responsive to complaints and follow them up. The legislation gives them quite an active role.

Senator HARRADINE—But no monitoring.

Ms Holthuyzen—No, it does not give them a monitoring role. In terms of the complaints mechanism, they have to actively pursue those complaints and get the classifications or make the decisions themselves and put it into place.

Mr Cheah—The government is establishing the community service as well, so there is a body which basically is in a position to do monitoring and then make complaints. Once a complaint is made, as long as it is not frivolous or vexatious or intended to undermine the administration of the legislation, the ABA must investigate the complaint and then act on it. So if you put those two things together, you have a composite mechanism which should allow some reasonable scanning independently of the ABA, and then the ABA basically performs its regulatory function.

Senator HARRADINE—But one of the witnesses, I think from Young Media, said that, if all the money that is in the provisions relating to the cost of the program—\$1.9 million, I think—was spent in the area of education, it would not even be sufficient. How do you think it is going to be sufficient for parental education, widespread education, monitoring and reporting?

Ms Holthuyzen—The answer to that is that I think it is the government's best estimate at this stage that they believe that amount of money will be sufficient. I presume as the regime gets implemented that, if it does appear that sort of money is deficient, the government would reconsider the issue. At this stage, it is very difficult to know completely what level of complaints will come along, and a certain amount of money has been set aside

for the education processes. I think it is a matter of the government believing that what has been suggested in the explanatory memorandum is sufficient.

Senator HARRADINE—I will leave it there.

Senator LUNDY—I would like to turn to the statement by the Prime Minister entitled ‘Australia-United States Cooperation on Electronic Commerce’ which Senator Calvert referred to earlier. Part 4 under ‘Content’ sites a range of initiatives. As Senator Calvert said, it includes:

Empowerment of users, including parents in relation to material which may be unsuitable for children—

How has that been interpreted by the National Office for the Information Economy or the government? Do you see that clause—clause B under point 4—as requiring legislation to censor online content?

Ms Holthuyzen—I am not sure whether we see it as ‘requiring’ that. That is a memorandum of understanding, a statement of principles. I guess our view is that, when that document was being put together, the government was obviously developing its policy in this area, and we believe that the policy that it has developed is quite consistent with those principles.

Senator LUNDY—That was not my question. Does this agreement compel you to legislate Internet content?

Ms Holthuyzen—No, it does not.

Mr Cheah—It is a memorandum of understanding; it has no legal effect.

Senator LUNDY—Have you consulted directly with the US on the issue of legislating for Internet content, given you have this cooperation agreement? Have you asked their opinion as to the impact on this relationship?

Mr Cheah—That memorandum of understanding is a statement of principles between the two governments. It is essentially the philosophy which both governments intend to pursue and it sets out some common principles. It is not something where either government would expect to consult the other government about the details of legislation that they were proposing to implement.

Senator LUNDY—It was sited in a number of forums as a bilateral agreement.

Ms Holthuyzen—It is not a bilateral agreement. At the last Senate estimates committee, there was some discussion about this particular document. It has been misquoted as a bilateral agreement. It is a memorandum of understanding which details principles of agreement between the two governments.

Senator LUNDY—Have you received any comment from your US equivalent?

Ms Holthuyzen—We have had some informal comments. We had an officer overseas a few weeks ago who spoke to some officials in the government. They were interested in what we were doing, but there was no particular criticism of the proposals in the bill.

Senator LUNDY—So have you had any formal response or communication with the US?

Ms Holthuyzen—No, we have had no formal response or communication.

Senator LUNDY—Have you endeavoured to actively consult with international forums on the bill?

Ms Holthuyzen—No, but in the development of the government's policy, the government clearly took into account issues and developments that were happening internationally in coming to its views and its policy position.

Mr Cheah—Ms Holthuyzen described those last time.

Senator LUNDY—Yes. I will not go over that old ground, other than to say that we did have a witness today who was familiar with this debate in the European Union environment. The comment was that this debate had been well and truly traversed and the conclusion they had come to was to not actually mandate any regime of censorship on the Internet but to focus very specifically on end-user solutions. Can you provide any comment on that? Is that your understanding? Can you cite any Western style democracies that have in fact implemented the approach you are suggesting?

Ms Holthuyzen—I heard that evidence as well, and I think what she spoke about were the principles of co-regulation and those sorts of things. That is our understanding of where some of those policies have come out. All we can say is that the government understood all those policies and issues that were happening internationally and, in turn, took into account the particular issues in Australia and developed the particular policy that we have in place now.

Mr Cheah—To say that they are well traversed overseas is probably true; people have looked at these things. But to say that they have been resolved once and for all I think would be drawing a very long bow. A lot of these issues are not fully resolved overseas.

Senator LUNDY—I am not suggesting that they are fully resolved, but they have come up with current solutions in the sense of the net.

Mr Cheah—I think it depends a bit on current events. In Europe, when they had that terrible problem with the child molester in Belgium, there was a big spike of interest and focus on these sorts of issues. Then, with the Littleton massacre in the US, once again the focus has turned to Internet regulation issues. It is partly driven by particular things like that. When they happen, suddenly the focus in a lot of those other Western countries does come back to these sorts of issues.

Senator LUNDY—Just on that point, we have had a lot of information about—and Senator Harradine has raised this too—the issue of violent and undesirable content that goes way beyond the X classification or that area of erotica, and so forth. To what extent have you looked at the regulation of content in those other areas in the context of your considerations with the preparation of this bill?

Mr Cheah—I think we have described already the situation with R, and Ms Holthuyzen has described some of the issues which have influenced the government's reasons for treating R in the way that it has. The category of R, I think, is fairly broad. Although it does have some very violent stuff, there are a lot of other things there as well. At the end of the day, it does come down to a trade-off about the amount of material and the breadth of material versus the need for looking for solutions. But I think another important principle which the government was looking to as well was to make sure that what we do here is consistent with existing classification arrangements and draws on those. I suppose they are probably the two key factors which have ended up influencing where the government has come out on in relation to R-rated material.

Senator LUNDY—I did have another question, but I have forgotten it. Does anyone have any other questions while I think of it? It was a very important question.

Senator HARRADINE—You heard the Eros Foundation give evidence today—

Ms Holthuyzen—Yes.

Senator HARRADINE—and their responses to my questions relating to the provision of X-rated material, for example, through the Internet when there are converged technologies. How will this legislation work if, say, you have people calling up on the net and having an X-rated video coming through the net onto your lounge room screen, or whatever?

Ms Holthuyzen—In terms of the material—are you talking about X and not R?

Senator HARRADINE—They were talking about X, yes.

Ms Holthuyzen—In terms of the material located in Australia, clearly, if there are complaints about that X-rated material, that is when you go through the processes of the material being able to be taken down.

Senator HARRADINE—The person who is purchasing it will not be complaining.

Ms Holthuyzen—No, but other people may well be complaining. The site is just not available to everyone.

Senator HARRADINE—But say you get 'netwatch', or whatever it is called, contacting Eros and ordering down a video there and then, do you mean to say that that complaint would then be referred to the ABA?

Ms Holthuyzen—No, because clearly there is no complaint in those circumstances.

Senator HARRADINE—Why isn't there? The 'netwatch' people would then notify the ABA that this material is available from this web site.

Ms Holthuyzen—That is right. Then, if that material is either RC or X, the ABA can issue an interim notice asking them to—

Senator HARRADINE—Isn't that video streaming; isn't that a streaming technique?

Mr Cheah—If the material is sitting there on a server and is available, and if at any time it goes on a server, then it gets caught by this Internet legislation. If it is there in a truly converged form in that it starts to look like a television or radio program, it would probably get covered by the existing categories within the Broadcasting Services Act. If it is truly point-to-point private communication, then it gets caught by state and territory laws or by the Crimes Act. Basically, they are the relevant divisions that the government's policy framework has set out.

Senator HARRADINE—This is a commercial activity.

Mr Cheah—In the form of a point-to-point communication.

Senator HARRADINE—What about the statement that was made by the Eros Foundation that, yes, the net would be used—particularly when technology convergence comes in in an interactive way—as a cyberspace brothel, a commercial brothel? Does this legislation cover that situation? I wonder whether you could take that question away and see whether the legislation does cover that situation.

Mr Cheah—One of the issues in relation to all of this is the distinction with point-to-point private communications. If two individuals are having a private telephone conversation, most people would not be proposing that you would be trying to regulate—

Senator HARRADINE—We are talking about commercial services. This obviously will be a significant use of the net by Eros and people associated with it.

Ms Holthuyzen—We will take it on notice, but I think the answer is that, if it does get stored anywhere, it can be captured under the legislation.

Senator HARRADINE—No, it is real-time—

Ms Holthuyzen—It could still be real-time and be stored.

Mr Cheah—It has to be at least cased onto a hard disk, so in theory it is covered. What happens is that a video normally has to be converted into a digital form, and once that happens it gets picked up that way.

Ms Holthuyzen—If it is not picked up, at the moment it would be picked up under Crimes Act provisions in terms of use of the telecommunications network. I think 85ZE is the provision which could pick it up, if it was considered to be offensive material.

CHAIR—Could you have a think about it overnight. I think that brings to an end the hearing today.

Senator LUNDY—Madam Chair, could I put on the record a couple of comments please?

CHAIR—Yes.

Senator LUNDY—It relates to the operation of the committee. For the purposes of the record, committee members received a number of the submissions offered by witnesses only this morning as we arrived in the committee. I would like to put on the record my concern about how that has affected the performance of this committee, and certainly my participation in it. It is a reflection on the tight time frame proffered by the government in the first instance in the deliberation of this piece of legislation and its referral to this bill.

CHAIR—Order! Senator Lundy, I do not believe members of the department need to sit here and listen to you putting this on record. If there are no more questions for the department witnesses, I will declare this hearing closed. Thank you for your attendance. And thank you to all the members who have sat here all day and during last week.

Committee adjourned at 7.01 p.m.

