

Appendix One

Summary of Electronic Frontiers Australia (EFA) 16 March 2010



No	Date and source	EFA Comments	Response
1	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	"Now, the second problem is that the filter is, really, a waste of money in that it technologically can't achieve its aims.	The live pilot has shown that filtering a defined list of URLs (i.e. a page or an image on a website) can be done with 100% accuracy and negligible impact on network performance. ISPs in many western democracies have shown for many years that filtering works.
2	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	"So the people who are going to be trafficking in the worst of the worst material, things like child sexual abuse material, child pornography, this material is not traded on the open internet.	As at 28 February 2010 ACMA had identified 355 'live' URLs of child abuse material which was available on the 'open internet'. It is reported that some people's first encounter with child pornography is on the open internet before they are lured into more sophisticated arrangements.
3	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	"So it won't stop access to that sort of material, and it won't stop the trade. What's needed there instead is police activity."	The Government's cyber-safety plan includes ongoing funding for an additional 91 AFP officers for the Child Protection Operations Team.
4	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	"The other reasons put in favour of the filter seem to be that we're going to be making the internet safe for Australian kids, and the problem with this is that with any fairly small list, and we're looking at about 1000 to 10,000 web sites, so not a huge proportion - a very tiny proportion of material on the internet - you're not going to make the internet any safer for children.	The Government has consistently acknowledged that ISP filtering is not a 'silver bullet' solution. ISP filtering is one element of a broad range of measures under the Government's Cyber-safety Plan, including law enforcement and education.
5	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	"I had a call recently from the administrator of Pillreports, which is a drug information site, which realistically has saved or - I don't think it goes too far to say it saved the lives of a lot of people by providing information on the safe use of drugs. These are the sort of web sites that would likely be blocked and the people who this is really going to effect are people who are not able to get around the filter and access that information."	An assessment of this website has not been made as there have been no formal complaints to the ACMA regarding this site at the time of the statement of the EFA. Before any part of a website that concerns proscribed drugs reaches the RC classification threshold, the content is usually found to either provide detailed instruction in the use of proscribed drugs such as its manufacture and/or self-administration; or the glorification of the proscribed drug with the intention

No	Date and source	EFA Comments	Response
			to actively encourage and/or promote its use. This may not be the case where the drug use is depicted in a medical or public health context.
6	19 December 2009 4ZZZ, 'Brisbane Line Weekend' Nic Suzor, Chair, EFA	<p>"But so far...the policy's been fairly vague, in that Senator Conroy says that certain things will be banned, inappropriate material will be banned, and as I said, he conflates that with child sexual abuse material, and there's no clear indication of exactly what category of material will be block... banned.</p> <p>If - at the moment it seems like it's going to be the whole of, what we call, RC, which is Refused Classification material, which is extremely broad."</p>	<p>The Government has made it very clear that the target of mandatory filtering is Refused Classification (RC) material on an RC Content list of specific URLs that are hosted on overseas servers. The definition of RC is clearly set out in the long-standing National Classification Scheme. RC-rated material includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. Under existing laws it is already illegal to distribute, sell or make available RC films, computer games and publications. This material is also subject to take-down notices by ACMA if hosted in Australia. Australian society, through the Australian Parliament, has accepted for many years the definition of RC content.</p>
7	17 December 2009 Channel 10, 'The 7PM Project' Colin Jacobs EFA, Vice-Chair	<p>"In fact, what we're talking about here is a small list of a few thousand websites compiled in secret by a government department."</p>	<p>Significant measures to increase transparency and accountability are proposed including:</p> <ul style="list-style-type: none"> • block pages that enable users to seek review of any material that they find blocked; • appeal mechanisms; • wherever practical, notification to website owners of RC content after liaison with the AFP; and • an annual review by an independent expert and a report to Parliament.
8	17 December 2009 Channel 10, 'The 7PM Project' Colin Jacobs EFA, Vice-Chair	<p>"The Government's own studies have shown that once you try and expand filtering beyond that list in any way, even in the most accurate scenarios, we're talking three or four per cent of sites being blocked that shouldn't be. That adds up to many, many millions of websites that would be denied to Australians."</p>	<p>Testing in the live pilot and Telstra's own testing found that a defined list of URLs can be blocked with 100% accuracy. ISPs in many western countries have also shown that filtering of a defined list can be done with 100% accuracy. The 3-4 percent Jacobs is quoting refers to the results of Enex TestLab's testing of optional levels of filtering</p>

No	Date and source	EFA Comments	Response
			where parents may choose to have a wider range of content blocked. It would be their choice to accept some over-blocking if they wish to have more content blocked.
9	17 December 2009 Channel 10, 'The 7PM Project' Colin Jacobs EFA , Vice-Chair	"They went ahead and they've allocated \$43 billion to give us all faster and better internet. Now, in the meantime they're spending \$40 million or more on this filter which will only make things slower and more expensive if it's implemented. Also the tests that they did, tested speeds that we have now, once the new broadband network is in place, the results that they've got are completely inappropriate."	Enex TestLab conducted testing of ISP-level filtering on networks running at speeds of up to 8 megabits per second. This was the highest speed offered by any of the pilot participants. Consultations with ISPs and expert technical advice confirms that there is no reason that ISPs could not implement a technology that filters a defined list of specific internet addresses (URLs) with no, or only negligible, impact on network speeds when utilising the National Broadband Network.
10	17 December 2009 Channel 10, 'The 7PM Project' Colin Jacobs EFA , Vice-Chair	"Filtering was never going to be the answer. Parents need - and teachers - they need information from the Government on, what are the real risks kids face; what are the practical steps that you can take? A lot of the problems kids have aren't stumbling across content, it has to do with interacting with other people. Getting bullied online and so on."	The Government's cyber-safety plan includes significant funding for these matters. For example, \$32.8 million has been provided to ACMA to undertake cyber safety education, awareness and counselling activities.
11	17 December 2009 Channel 10, 'The 7PM Project' Colin Jacobs EFA , Vice-Chair	"There is a role for Government in making filters for the home more accessible and more affordable, and in terms of combating child pornography, the Australian Federal Police are out there everyday, infiltrating these networks and putting people in jail. If the Government's serious about that, better funding the police will have a much better outcome about getting these guys off the streets than this proposal which, really, is just a political smokescreen to make the Government look good."	The Government's cyber-safety plan includes on-going funding for an additional 91 AFP officers for the Online Child Protection Operations Team.
12	17 December 2009 EFA website Colin Jacobs Vice-Chair, EFA	"all Australian ISPs will be required to filter access to a government-supplied blacklist containing "refused classification" (RC) web content. That would include nasty stuff like child pornography, but also a broader range of content: fetishy sex, instruction in crime (such as euthanasia), any computer game not suitable for under 18s."	Online games will not be filtered pending the outcome of the consultation process being conducted by the Minister for Home Affairs.
13	16 December 2009 2SM 'Mornings'	"But because the list itself is secret, there are those who end up on the list, you know, won't know about it, there won't be an appeals mechanism like there is	See response to 7.

No	Date and source	EFA Comments	Response
	Colin Jacobs Vice-Chair, EFA	for other censorship decisions. So it's not very transparent at all, which is, you know, one of our main concerns."	<p>Significant measures to increase transparency and accountability are proposed including:</p> <ul style="list-style-type: none"> • block pages enable users to seek review of any material that they find blocked; • appeal mechanisms; • wherever practical, notification to website owners of RC content after liaison with the AFP; and • a annual review by an independent expert and a report to Parliament.
14	16 December 2009 2SM 'Mornings' Colin Jacobs Vice-Chair, EFA	"So when we look at the small list, the government blacklist, yes, that can be blocked pretty accurately. The question is, who decides what's this material that's not acceptable in any civilised society. The criteria that the Government has suggested would certainly include things like child pornography that everybody agrees should be blocked, but the criteria are much, much more broader than that."	See response to item 6.
15	16 December 2009 2SM 'Mornings' Colin Jacobs Vice-Chair, EFA	<p>"We never got a good explanation for why all of those sites were on the leaked blacklist because it's secret. You know, we only knew about it from the leak. Some of those sites such as the dentist or a tuckshop supply company ended up on the list because their site was once hacked and had material on it that, you know, was offensive. But they were never notified, and once the problem was fixed, they never came off the list again.</p> <p>We think the fact that it's secret really changes the game and, you know, we have to be a lot more careful and we need a much better explanation of why this is necessary."</p>	<p>The situation of the dentist and tuckshop have been explained on numerous occasions. Some businesses based in Queensland were hacked with pages within their website having child abuse material uploaded. Complaints led to the URLs leading to those pages being added to the ACMA blacklist. It should be noted that these websites were never blocked and it was only the pages which had the illegal content uploaded that ended up on the list provided to accredited PC filter vendors.</p> <p>Significant measures to increase transparency and accountability are proposed including:</p> <ul style="list-style-type: none"> • block pages enable users to seek review of any material that they find blocked; • appeal mechanisms; • wherever practical, notification to website owners of RC content after liaison with the AFP; and • a annual review by an independent expert

No	Date and source	EFA Comments	Response
			<p>and a report to Parliament.</p> <p>A public consultation paper is available from the Department's website. Submissions closed 12 February 2010 and will be shortly published.</p>
16	<p>16 December 2009 2SM 'Mornings' Colin Jacobs Vice-Chair, EFA</p>	<p>"But who knows what future parliaments and future governments will look like. Once there's a mechanism in place in all ISPs in the country that filter the list, there's nothing stopping a future government from expanding the scope of that."</p>	<p>The Government will not expand mandatory ISP-level filtering beyond RC-rated material. This would require changes to the legislation that would have to be supported by both houses of Parliament.</p> <p>Any future Government would have to pass legislation – just as they would have to do to change any existing law in Australia.</p>
17	<p>16 December 2009 ABC Gold and Tweed Coasts, 'Drive' Geordie Guy EFA Board Member National Technology Policy Coordinator, Australian Democrats</p>	<p>(So, who decides what gets blacklisted, what you can't access?)</p> <p>"A random public servant, and you're not allowed to know what.</p> <p>The Australian Communications and Media Authority compile this list, and the way they do that is; people are offended by something they see online and they complain to the authority. And the authority then makes a determination to put it on the list if it's that Refused Classification material."</p>	<p>An arbitrary decision is not made by a Government official. The Government has proposed that after initial assessment by the ACMA, classification is determined by the Classification Board, an agency at arm's length from the Government, made up of representative members of the community. The National Classification Scheme Guidelines are reviewed periodically to ensure they reflect community standards. The National Classification Scheme is underpinned by legislation.</p> <p>Significant measures to increase transparency and accountability are proposed including:</p> <ul style="list-style-type: none"> • block pages enable users to seek review of any material that they find blocked; • appeal mechanisms; • wherever practical, notification to website owners of RC content after liaison with the AFP; and • a annual review by an independent expert and a report to Parliament.
18	<p>16 December 2009 ABC 936 Hobart, 'National Mornings'</p>	<p>"What we're still waiting on is an ETA on some sort of report or community engagement that tells us that this is a good idea and if it is a good idea, why it's a better idea than traditional law enforcement and education, which is the way that Australians expect our law enforcement agencies and our judiciary to</p>	<p>ISP filtering is one element of a broad range of measures under the Government's Cyber-safety Plan, including law enforcement and education. These initiatives tackle the issue of cyber-safety from a</p>

No	Date and source	EFA Comments	Response
	Geordie Guy EFA Board Member National Technology Policy Coordinator, Australian Democrats	approach illegal stuff.”	number of directions. More importantly, this approach is based on the key role parents and carers have in the online safety of children, and provides them with the necessary information to assist with this task.
19	16 December 2009 ABC 720 Perth, 'Mornings' Geordie Guy EFA Board Member National Technology Policy Coordinator, Australian Democrats	“what we also understand is that the blocked material could get larger and larger, and also the report didn't consider what should happen with high speed networks such as the Government's proposed national broadband network.”	The Government will not expand mandatory ISP-level filtering beyond RC-rated material. This would require changes to the legislation that would have to be supported by both houses of Parliament. Any future Government would have to pass legislation – just as they would have to do to change any existing law in Australia.
20	http://nocleanfeed.com EFA website	“The category of material that has been 'refused classification' includes websites about euthanasia, controversial movies such as 'Ken Park' and 'Baise-moi', and many games that are designed for people over 16 years of age.”	See response to 6. Online games will not be filtered pending the outcome of the consultation process being conducted by the Minister for Home Affairs.
21	22 December 2009 EFA website Nic Suzor	“Electronic Frontiers Australia today expressed its surprise and concern that the operators of the satirical protest site StephenConroy.com.au were given only three hours to justify their “connection to” the domain name. Under Australian domain name regulations, it is quite common for website operators to be required to identify their reasons for operating under an Australian domain name, but it is unusual for operators to be offered so little time to provide those reasons. This incident reflects worrying concerns about the power that private domain name regulators have to silence critical political speech without going through legitimate legal channels.”	This was a decision taken by auDA.
22	15 December 2009 EFA website Colin Jacobs	“We'll be interested to see how the Internet service providers respond. We know they are critical of having such intrusive Government interference in their networks.”	The Government welcomes the constructive input of Australia's four largest ISPs – Telstra, Optus, iiNet and Primus. These companies came forward to help inform the Government's approach to ISP-level filtering. Between them these ISPs account for more than 80% of internet users in Australia.
23	21 December 2009 Crikey, 'Reporters without Borders: Don't do it, Rudd!'	Jacobs discusses an open letter to the Prime Minister signed by Jean-Francois Julliard, Secretary-General on 18 December 2009 and located on the 'Reporters without Borders' website, Paris.	See responses to 6 and 7.

No	Date and source	EFA Comments	Response
	Colin Jacobs, CEO, EFA	"Firstly, the decision to block access to an 'inappropriate' website would be taken not by a judge but by a government agency, the Australian Communications and Media Authority (ACMA). Such a procedure, without a court decision, does not satisfy the requirements of the rule of law. The ACMA classifies content secretly, compiling a website blacklist by means of unilateral and arbitrary administrative decision-making. Other procedures are being considered but none of them would involve a judge."	
24	21 December 2009 Crikey, 'Reporters without Borders: Don't do it, Rudd!' Colin Jacobs, CEO, EFA	"The letter also expresses concern at the vagueness of the filtering criteria, worrying that "subjects such as abortion, anorexia, Aborigines and legislation on the sale of marijuana would all risk being filtered, as would media reports on these subjects." Jularid notes the inherent unreliability of filtering and cites the leaked ACMA blacklist of earlier in the year as an example of how legitimate material can find its way onto a blacklist."	See responses to 6 and 7.
25	8 January 2010 Radio National, 'Breakfast', Compere – James Carleton. Geordie Guy, EFA Board Member National Technology Policy Coordinator, Australian Democrats. Clive Hamilton, Professor of Public Ethics, Charles Sturt University. Higgins candidate, the Australian Greens.	"...when we talk about refused classification, we're talking about a much, much, much broader scope than simply the things that you can't see on television. It's absolutely not just illegal material. ... What we're concerned about is just how broad that RC is, and the fact that it's going to catch up a whole bunch of things that are perfectly legal to access on television, in cinemas, et cetera,....."	Only material which is Refused Classification will be subject to mandatory ISP filtering. RC-rated material includes child sexual abuse imagery, bestiality, sexual violence, detailed instruction in crime, violence or drug use and/or material that advocates the doing of a terrorist act. Under existing laws it is already illegal to distribute, sell or make available RC films, computer games and publications. RC material clearly cannot be accessed on television and in cinemas.
26	8 January 2010 Radio National, 'Breakfast', Compere – James Carleton. Geordie Guy, EFA Board Member	"Also, since 1996 it of course includes computer games which are not suitable for young children, because we don't have an adult rating for computer games in this country. This means they can't be given a rating and this means they're refused classification."	See response to 12.

No	Date and source	EFA Comments	Response
	<p>National Technology Policy Coordinator, Australian Democrats.</p> <p>Clive Hamilton, Professor of Public Ethics, Charles Sturt University Higgins candidate, the Australian Greens.</p>		
27	<p>14 January 2010 4ZZZ, Brisbane Line Compere: Various Peter Black, EFA campaigner</p>	<p>“The second reason that we’re concerned about it is the idea of the cost that will go into it. So if we start from the position that we don’t believe it will work, the Government will be spending, you know, millions of dollars, hundreds of millions of dollars on the technology that simply won’t bring about the results. So we see it as an extraordinary waste of taxpayers’ money.”</p>	<p>Funding for mandatory ISP filtering is one element of the Government’s cyber-safety plan, which is comprised of a range of measures, including law enforcement, education, international co-operation, research and filtering.</p>
28	<p>15 January 2010 ‘The Age’ ‘Google’s China move puts focus on local censorship plans’ by Chris Zappone The article refers to EFA spokesperson, Geordie Guy.</p>	<p>“We’re concerned that Australia is following the sorts of precedents set down by countries like China and Iran that have maintained internet censorship,” said Mr Guy.</p> <p>He said Australia’s proposed plan resembles China’s original censorship regime which blocked banned content at the internet service provider-level.”</p>	<p>Australia’s ISP filtering policy is very different to arrangements in China and Iran.</p> <p>The Australian Government will require ISPs to block the URLs (i.e. a page or an image on a website) of RC-rated material hosted on overseas servers. The Australian scheme will apply to a defined category of content with a very high level of transparency and accountability.</p>
29	<p>20 January 2010 ABC 612, Brisbane, 1.09PM ‘Afternoons’ Compere: Rebecca Levingston Colin Jacobs, EFA and Internet Censorship Spokesman</p>	<p>“Once there’s new and secretive censorship powers in place it seems to us very unlikely that all future governments will resist the temptation to expand it, whether it might be to do with copyright or whatever the particular moral panic is of the day. Once the mechanism is there it’s clearly much easier to broaden what goes on the list than it is to institute the entire system in the first place.”</p>	<p>See responses to 16 and 19.</p>
30	<p>20 January 2010 ABC 612, Brisbane, 1.09PM ‘Afternoons’ Compere: Rebecca Levingston Colin Jacobs, EFA and Internet</p>	<p>“We still don’t know what will happen when an Australian internet user tries to access a blocked site, whether they’ll get a message and an explanation or simply a blank page. We don’t know. And one worry that we have is if an Australian business is added to the black list they’ll probably have no way of knowing, you know, how or why it’s happened or when it’s happened and they</p>	<p>See response to 15.</p>

No	Date and source	EFA Comments	Response
		themselves off the list again.”	
31	20 January 2010 ABC 612, Brisbane, 1.09PM 'Afternoons' Compere: Rebecca Levingston Colin Jacobs, EFA and Internet Censorship Spokesman	“Somebody could post something obscene or at least that would be refused classification to an otherwise harmless website that would therefore automatically go on the list if someone made a complaint to ACMA so even if your website is harmless now and you don't think you would be affected, it could certainly happen at some point in the future, the content could change and you could find yourself on the blacklist without warning.”	See response to 15.
32	22 January 2010 Radio National, ABC 666 'PM', 5.18pm Compere: Shane McLeod Interviewees: Hillary Clinton, US Secretary of State Colin Jacobs, EFA Michael McKinley, ANU Susan Harris Rimmer, Australian Lawyers for Human Rights	Colin Jacobs: “China's not alone in censoring the internet and that's a club that Australia is unfortunately set to join if the Rudd Government get their way this year.”	Australia's scheme involving a well defined and narrow category of content known as Refused Classification cannot be compared with China's filtering scheme.
33	26 January 2010 <i>Sydney Morning Herald</i> 'Websites fade to black in censorship protest,' Asher Moses Colin Jacobs, EFA	“Existing censorship is an open and transparent process but this new internet censorship power is completely secret and not subject to public review,” Jacobs said.	As part of the introduction of mandatory ISP-level filtering of RC-rated overseas content, the Government proposed measures to improve the transparency of processes that lead to material being placed on the RC content list. The proposed new measures include: <ul style="list-style-type: none"> • the Classification Board classifying RC-rated content which has been referred to ACMA as a complaint; • the ACMA notifying readily identifiable and contactable website owners that their content is to be added to the RC content list after liaison with the AFP; • a standardised block page that enables users to seek review of any material that they find

No.	Date and source	EFA Comments	Response
			<p>blocked; and</p> <ul style="list-style-type: none"> a review by an independent expert and a report to Parliament. <p>A public consultation paper is available from the Department's website. Submissions closed on 12 February 2010 and will shortly be published.</p>
34	<p>26 January 2010 <i>Sydney Morning Herald</i> 'Websites fade to black in censorship protest,' Asher Moses Colin Jacobs, EFA</p>	<p>"The scope of the filter is quite broad – although it will block the nastiest of the nasty content that [Communications Minister Stephen Conroy] likes to talk about, our concerns are around the edges where politically sensitive topics such as euthanasia, drug use and sexuality material will be blocked."</p>	<p>The Government will shortly introduce into Parliament legislation for the mandatory ISP-level filtering of Refused Classification (RC) content. RC material includes child sexual abuse imagery; bestiality; sexual violence; detailed instruction in crime, including suicide related material; violence or drug use and/or material that advocates the doing of a terrorist act.</p>
35	<p>8 February 2010 3CR Breakfast, 7.39am Melbourne Compere: AJ 'Discussion about proposal by Federal Minister for Broadband and Communications Stephen Conroy, for a mandatory internet filter blocking material refused classification' Geordie Guy, EFA</p>	<p>"Discussion about euthanasia or abortion, as well as discussion about drug use, are all things that can get sucked up under that RC category because of the way the category is worded."</p>	<p>Classification decisions are made by the Classification Board and the Classification Review Board by applying the <i>Classification (Publications, Films and Computer Games) Act 1995</i>, the Classification Code, and classification guidelines.</p> <p>Material that provides detailed instruction or promotion of matters of crime or violence would generally be classified Refused Classification. Material that contains drug use is generally Refused Classification where the drug use is related to incentives or rewards. This may not be the case where the drug use is depicted in a medical or public health context.</p>