Content regulation and libraries

The Broadcasting Services Amendment (Online Services) Act and its implications

ALIA has produced an information resource to provide ALIA members with an understanding of the *Broadcasting Services Amendment (Online Services) Act 1999*, which deals with content regulation on the internet, the professional values which this legislation impinges on, and the implications for library and information services in Australia. It includes examples showing how some libraries have dealt with issues arising in their community of users. It provides the text of some key statements on professional ethics and practice and it includes references to other sources of information.

The *Broadcasting Services Amendment (Online Services) Act 1999* has caused strong reactions within the community, both for and against it. For some, the legislation offers protection, particularly for children, against pornography. For others, it inhibits freedom of expression and is a form of censorship. The Act came into force on 1 January 2000.

In effect, the *Broadcasting Services (Online Services) Act 1999* aims to control material on the internet. It is administered through a number of regulatory bodies including: the Australian Broadcasting Authority (ABA), the Office of Film and Literature Classification (OFLC), a new government-appointed board named NetAlert, as well as Commonwealth and state/territory legislation.

The legislation targets the Internet Content Host (ICH) or the Internet Service Provider (ISP), not the person responsible for the ownership or creation of the content. The Act does not target those who provide access to information in the way that most libraries do. It is a complaints-based system. This means that it is not illegal to make available any particular content, but it is illegal to keep on making it available once it has been found by the ABA or the OFLC to be 'prohibited content'.

To deal with complaints upheld against material hosted outside of Australia, the legislation refers to the Access Prevention Rules. According to these, as documented in the Internet Industry Code of Practice, an ISP must 'provide for use, at a charge determined by the ISP, an Approved Filter' to each of their customers. Originally, the ABA was to notify an ISP that certain content should be blocked; however, now the ABA will notify the suppliers of the Approved Filters.

The challenge

The current legislation presents Australian librarians with a challenge — the provision of free access to information within a 'safe environment'. In the Australian context, that 'safe environment' is the one which exists when librarians and library technicians exercise their professional practice judiciously. One could summarise the implications for librarians and library technicians of the introduction of the *Broadcasting Services Amendment (Online Services) Act* as follows:

Through judicious practice:

- to create a 'safe environment' for library users, where freedom of information is a central tenet, and

- to create a 'safe environment' for library staff.

Judicious practice and the 'safe environment'

The intention of the legislation would appear to be the creation of an environment in which individuals can feel confident that they will not encounter objectionable or illegal material by accident on the internet and that minors will not find unsuitable material. Library managers also need to be aware of the need to provide a 'safe working environment' for library staff under the various employment codes, industrial awards and Occupational Health and Safety Acts.

Libraries can create the 'safe environment' indicated by the legislation in a number of ways, most of which are examples of judicious practice, derived from the Statement on Professional Ethics. These include the the development of policies, guidelines and procedures for acceptable use of the internet, the establishment of clear procedures for dealing with complaints, especially in regard to the Australian Broadcasting Authority complaints mechanism, the development of an effective community education program on internet use, the establishment of an appropriate program of staff training, and the use of filtering.

Handling complaints

If people feel threatened, they often want to retaliate or they complain. In a library, they are more likely to complain than to retaliate. Under the legislation of the *Broadcasting Services Act*, a mechanism for handling complaints about 'prohibited content' and 'potential prohibited content' exists and library staff need to be familiar and comfortable with the way this mechanism works.

The Australian Broadcasting Authority has the responsibility for investigating complaints about offensive material and it is to this body that complaints must be made. According to the Internet Industry Code of Practice, as a minimum, Internet Service Providers must provide relevant and appropriate information on their home page or other prominent web page or link to a page approved by the Internet Industry Association. Internet Content Hosts must include a statement about the right to make complaints to the ABA about prohibited content or potential prohibited content in any hosting contract with end users, in any acceptable use policy, on their home page and a link to a page approved by the Internet Industry Association.

Libraries should make available information about the ABA's complaints mechanism and copies of the forms to be completed, but it is the complainant's responsibility to send the forms to the ABA.

The existence of a formalised mechanism for handling complaints means that individual staff members do not become arbiters of library policy or of community standards. It also means that staff can distance themselves from the emotion of the moment, by seeing that they do not have to engage with the rights or wrongs of the case, but only ensure that they follow the processes laid down. This often removes some of the stress of dealing with an angry person from library staff and helps to lead to a more comfortable work environment for all staff.

Developing policy for acceptable use of the internet

In the same way that most libraries have policies, guidelines and procedures governing the use of library resources, facilities and services, there is a need for policy for acceptable use of the internet. The policy may be based on policies already in use for other materials within the library. Indeed, many librarians will argue that there should not be a special policy devoted to use of the internet as it is just another medium of communication. An important aspect in the development of an acceptable use policy is that it reflect the expectations and standards of the library's community. It is also important that it reflect the professional ethics of librarians.

There is a particular requirement under *the Broadcasting Services Act (Online Services)* as amended 1999 that those

under the age of 18 can only access material on the internet with the consent of a parent, teacher or other responsible adult. Libraries will need to consider how they will include this in any policy on acceptable use of the internet and how they will put policy into practice and monitor it.

Implementing a program of community education

For many years, librarians have been educating their user communities. The terminology has changed, from the reader education of thirty years ago to the information literacy of today and yet the basic needs remain the same. A major difference is that the use of the internet requires people to learn new conventions, new cues for identifying authoritative sources and new behaviours for communicating.

Community education is seen as one of the significant ways in which a 'safe environment' can be achieved for internet users. Embedded in the obligations of Internet Service Providers and Internet Content Hosts are opportunities for working with users and the user community which would not otherwise exist. It is apparent from the public discussions that there is uncertainty and misinformation and a great need for education of the us-

ers and potential users of internet-based information. Librarians and library technicians in all types of library have much to contribute.

Conclusion

What kind of impact, then, will the *Broadcasting Services Act* have on the provision of library and information services in Australia?

The *Broadcasting Services Act* has set up obligations and requirements for those libraries which are Internet Service Providers which have no parallel in previous experience, but which in essence are little different from the expectations of judicious practice. For those libraries deemed to be Internet Content Hosts, the obligations and requirements are very similar to those which have always existed for libraries – that is, libraries have always had to live by the laws relating to the classification of literature and film. The major issue is in the way in which libraries, whether ISPs, ICHs or just end users react to the obligations related to filtering. No library is required to use filtering or blocking software. Many schools will choose to establish a cache or to block certain types of sites to ensure that they fulfil their duty of care. Other types of library may establish a cache on the grounds of financial savings.

Librarians have the skills to organise information and to retrieve that information which meets a user's needs. They also have a fundamental professional belief in freedom of access to information. On one hand, there is the argument in support of freedom of expression and the civil and political rights of individuals and on the other hand, the argument in support of government regulation for safe and secure enviroment, especially for children. The Liberal Party of Australia's Statement of Beliefs is firmly based on notions of benign government regulation of the social environment, rather than on notions of a robust, participatory, democratic society. Thus, it is inevitable that regulatory legislation will be passed, curtailing some activites which may be perceived as 'not safe'. Members of ALIA must stand by their Statement on Professional Ethics and, where necessary to protect the freedom to read, they should be prepared to make public statements and to argue within their community for freedom of access to information, regardless of the form it is in.

Copies of the ALIA information resource are available from the ALIA National Office, phone 02 6285 1877, fax 02 6282 2249, or e-mail enquiry@alia.org.au*. The information resource is available to ALIA members only.*