



**Submission to the Commerce and Economic Development Bureau
The Government of the Hong Kong Special Administrative Region
on
ICT Industry Response to
The Review of the Control of Obscene and Indecent Articles Ordinance**

**January 2009
Internet Professional Association**

ICT Industry Response to the Review of the Control of Obscene and Indecent Articles Ordinance

Introduction

The first round of public consultation as part of the review of the Control of Obscene and Indecent Articles Ordinance (COIAO) launched since October 2008 has drawn diverse reactions from members of the public and the media, particularly the section concerning monitoring of the new media.

New forms of media, which exhibit an extraterritorial and networked nature, have drastically changed the media scene and members of the public are increasingly concerned about the spread of indecent and obscene articles in the cyberspace. Against the backdrop of this fast-changing digital age, members of the ICT industry generally agreed to set our priority on ensuring a proper environment for youngsters to utilize and enjoy resources made available by the new media and we are willing to provide the necessary resources and technical know-how within the framework of regulatory guidelines.

The Internet Professional Association (iProA), one of the largest professional associations of the ICT industry consisting of more than 2,300 ICT industry players as members, would like to put forward our view as deliberated below concerning the New Media Section in the COIAO consultation booklet. Our response is geared towards our mission which focuses on facilitating a seamless connection and communication between the ICT industry, the Government, and the public community. We hope that our views and the questions raised regarding the consultation will contribute to the positive progress of the society by means of technology advancements.

To what extent should new forms of media be regulated and how practical it would be?

- The cyberspace by its nature is extraterritorial and, therefore, regulating local websites would not be a practical approach since youngsters can access obscene or indecent materials through overseas websites and it is difficult for our regulations to keep up with the ever changing nature of the new media and materials posted in the cyberspace. Moreover, how to define “obscene” and “indecent” not only changes with time, place, and culture, but also vary from one family to another as there is a different set of value system in each family which affects the way in which information are received and interpreted.
- Given the fluid nature of information flow in the cyberspace, the question regarding where to set the bar to make obscene and indecent materials off limit to youngsters cannot be addressed solely by law enforcement. It would be a more proactive approach to help youngsters to develop independent thinking, better analytical ability, positive values and outlook on life with the purpose of helping them build up a stronger resistance to the possible harm from the objectionable materials. In this respect, education

rather than control or punitive measures would enable more effective and long lasting results in terms of protecting children from obscene or indecent materials in the cyberspace.

- Therefore, we would recommend that resources spent on public education would yield more long term benefits comparing with law enforcement. A more proactive approach would be to enhance youngsters' analytical ability and encourage teachers, parents and social workers to acquire knowledge of all these issues and learn about the art of communicating the proper message with youngsters. In this respect, public education should not be limited to youth and students, education for parents to understand the culture and the forms of access to information on the internet is very important as well. Parents should be equipped with more tools on hand to facilitate their communication with their children and enhance their understanding of their children's behavior. Otherwise, parents will be in a very bad position to provide guidance.

How to enhance the co-regulatory regime between government and the industry?

- Given a clear set of regulatory guidelines along with a complaint and monitoring mechanism in place, ISPs and webmasters can serve as execution arms to ensure regulations are carried out in good order. Industry players would welcome the opportunity to work out the guideline for industry practice and provide the appropriate tools to facilitate the regulatory measures.
- A regulatory regime is necessary to maintain the lawful order of our society, however, the definition of obscene and indecency rested upon society values which changes with time and personal values vary across families and individuals as well. In view of the fast changing media scene in this digital age, ICT industry players generally do not agree that fixed and mandatory measures imposed on industry practices or user behaviors would lead to viable solutions to the issues arisen from new forms of media.
- In fact, there are plenty of technical tools and know-how available in the market to help individuals and society to detect whether a website is suitable for viewing or not and how ISPs and users may respond to the website. However, stipulation of regulatory measures can only take place after we have a definition of what are considered as obscene and indecent and how to set the legal boundary. Building on this basis, ICT industry players welcome the opportunity to work with the government to develop a code of practice to instigate these measures.

Should ISPs be required to provide filtering software?

- Although there is plenty of filtering software available in the market, there is no perfect way to block a website in a comprehensive manner. Experience and observations of overseas cases have suggested that the more powerful a filtering tool is, the higher the cost would be and the exercise of upstream control approach often encounters technical issues which makes it difficult to cater to the diverse needs

of users. Therefore, the protective methods should be user-driven, which can be made possible by tools at computer-end, server-end, and ISP providers, letting users decide on their options and allowing market force to drive up user culture would be a more sensible choice than mandatory measures imposed on service providers.

- ISPs can provide market-driven filtering service that parents can choose as an option to their existing accounts. In general, ISPs do not want to fall into a position to decide on ethical issues, but incline to observe the guidelines provided by other interested parties in the society after consensus is reached. Therefore, industry players would call for the government and NGOs' collaborative effort in providing the filtering list.
- In the free market economy we live in, high demand will drive up the product price, which stimulates supply. Therefore, the incentive for the ISPs providing filtering service or software is the demand by consumers, which very much depends on whether users are aware of the value provided by the software and their knowledge about their applications. Therefore, it is important to empower parents with the knowledge about the various forms of new media and using of filtering software to protect their children from harmful information in the cyberspace. As parents are made aware of as the benefits provided by filtering software, the demand for the software and the related technologies will go up, stimulating the growth of the market and the competition will give rise to the vital force fueling technological advancement.

Conclusion

- The challenges facing the cyber law often boil down to how wide we should cast the net of control on communication among internet users, and how this could be done without being too intrusive into private communication among individual internet users. While legal and administrative measures are unlikely to provide a complete set of solutions for securing a safe environment in the cyberspace, it therefore becomes imperative to step up public education in order to enhance the capability of members of the public to handle obscene and indecent materials on the internet.
- After much discussion of the review on the current legislature on COIAO, we acknowledge that while our aim is to improve rather than to replace the current system, we must not forget another reason for the review is to ensure the protection of youth and children from exposure to obscene and indecent information. As such, the views of parents and concerned citizens are crucial to the review.
- Members of the ICT industry would welcome the opportunity to collaborate with the government and community groups in providing the right resources and tools to enable the execution of regulations. We also believe that members of the public should know what choices are available and the usage of the tools to protect youngsters and children from the influence of indecent materials. With public

consultation and active engagement, we hope our collaborative endeavors would generate a sound policy framework that guides the progress of our society and culture in this digital age.

If there is any aspect of this submission requires elaboration or clarification, we would be happy to do so.

Policy Committee
Internet Professional Association

30 January 2009

About iProA (Internet Professional Association)

iProA is a non-profit making professional organization founded in December 1999. It represents over 2,300 professionals from Internet related industries, including CEOs and senior executives from leading information technology enterprises. Our members have made contributions in areas like innovative design, sales, marketing, infrastructure, e-commerce, consultancy, investment and other Internet related professional services, aiming to further develop the Internet industry in Hong Kong. We share the common goal of promoting the proper application of Internet technology and enhancing competitiveness of the IT industry. We work towards improving professionalism of information technology practitioners, encouraging IT professionals to share social responsibilities, as well as striving to bridge the digital divide in Hong Kong. Please visit website www.iproa.org for further information.