



NetSafe - The Internet Safety Group of New Zealand

Response to the Ministry for Culture and Heritage's

Consultation Paper - Broadcasting and New Digital Media: Future of Content Regulation

Established in 1998, NetSafe - The Internet Safety Group, is an independent, non-profit organisation specialising in educating about the safe, secure and responsible use of information and communication technology (ICT) including the internet and mobile phones. NetSafe is the Ministry of Education's Strategic Partner for cybersafety education in New Zealand.

The internet is often described as the new wild west - where geographic boundaries and therefore laws and regulations have little impact. In this environment, much of the responsibility for keeping safe is transferred to the individual and it is our role to help prepare them. NetSafe is therefore keen to support further development and delivery of digital media literacy programmes.

Despite the international nature of the internet and the limitations this places on traditional methods of control, there is still a need for clear regulatory regimes.

In the new media environment, undesirable content can be broadcast to the world from the nation with the weakest controls. Therefore, New Zealand has a responsibility to regulate content as a good cybercitizen.

Through its contact centre, NetSafe works with New Zealanders whose privacy and/or reputation have been compromised unfairly through digital media. We hope that this process will lead to a well designed regulatory framework providing recourse to all New Zealanders who suffer this fate.

Q1: What concerns are appropriate to be addressed through content regulation?

Any regulatory scheme should be based upon the values important to New Zealanders. In this regard, the existing standards set out in the Broadcasting Act 1989 are still appropriate - regardless of the delivery platform.

There is no doubt that the organisations represented by NetSafe, and indeed most New Zealanders, support the principles of protecting minors, the

maintenance of privacy, accuracy of information, and fair treatment in reporting.

Q2: Should a single regulatory regime apply to all broadcasting like content no matter how it is distributed?

No.

NetSafe supports any approach that provides for a fair application of standards. However, it should be noted that Digital Media has not just changed the platform content is delivered upon, but radically altered the relationship between content producers and viewers. The resulting environment does not lend itself to a single regulatory regime.

The traditional broadcasting model involved producers, broadcasters, and viewers - with (mostly) distinct roles and expectations. In the internet age, even the simplest model will include a producer, a host (e.g. YouTube), an Internet Service Provider (ISP), and a consumer.

But the reality could be far more complex. Content may be produced in collaboration between multiple parties. An item might be hosted at multiple locations, and will almost certainly have been copied to additional locations without the knowledge of the producer or original host. The content will be transmitted through multiple service providers including at least one each for the producer, host, and consumer. And it will be viewed by consumers in multiple locations (and legal jurisdictions) on multiple platforms. Then that same content might be altered by one of the consumers and reposted - and the cycle begins again.

Although at some point, the posting of all content can be linked to an individual or organisational "broadcaster" - regulating all broadcasting under a single regime model would be so difficult as to be unworkable.

Q3: Should the same general regime apply, but with a less strict or detailed code of content received on the demand of individuals than for content broadcast conventionally?

Yes - and no.

In terms of maintenance of law and order and protecting privacy of the individual, we should expect the same standard of all New Zealanders and New Zealand organisations.

In terms of balance, consumers can take into account the perception of the provider as a source of balanced information - and any regulation regime should acknowledge this.

By focusing on the consumers' relationship with the producer, it is possible to develop a regime that can be practically applied. However, it should be noted that this is likely to be a tiered regime that begins at the lower level with industry regulation and an escalation path that leads to a state agency that can guarantee enforcement of the standards. This means that different classes of producer can establish rules appropriate to their content.

Q4: Publicly owned broadcasters have special mandates to set standards of quality (such as the Charters of TVNZ and Radio NZ or the legislation of Maori TV).

Should their content be regulated differently from content of private sector broadcasters or the same?

The same - (as other broadcasters in their category).

There is no logical reason to set a different standard for broadcasters whose relationship with consumers is the same.

Q5: Should broadcasting-like content provided to audiences from overseas be subject to New Zealand's regime for content regulation?

Yes - if possible

If the content is deliberately rebroadcast by a local entity it should certainly be held to the same standards as content first broadcast locally. If it is not rebroadcast locally, then it will be impossible to apply broadcasting standards to it - and the focus of any regulations must move to the consumer.

Q6: If you answered yes, what form should regulation take, and who should regulate such content?

The regulation of each realm should be undertaken by the agency or organisation most capable of fairly applying it. Because of the sheer volume of content available through digital media - it is likely that this would be beyond the scope of a single entity. However, it may be plausible to have a single entity providing a higher tier of regulation over a series of self regulating industry groups.

Q7 a): Should there be a state agency available in New Zealand to operate a system of content regulation?

Or

b): Should broadcasters be able to regulate themselves, within the requirements of legislation?

Both

It is important that consumers have the ability to drive the maintenance of content standards in an affordable and practical way. The state agency should oversee the application of content standards, and provide an escalation point for consumers who are not fairly treated by a broadcaster.

Q8a): Are the current arrangements for monitoring public broadcasting and the broadcasting environment adequate?

The needs of traditional public broadcasting appear to be met by the existing arrangement.

b): Are there any gaps in the current arrangement?

Yes: There are certainly gaps in terms of the evolving digital media environment. In the information age, traditional control mechanisms are less effective, which in turn places more emphasis on the consumer - and education. New Zealand needs to make a greater investment in preparing its population for the challenges of the digital age.

Q9: If you believe that there are gaps in the current arrangements, would such an agency play a useful role?

No: Services such as commentary on the state of the broadcasting environment, research, and education are better performed by organisations independent of the state.

Q10: Do you favour a stronger role for a state agency in encouraging media literacy?

No:

The state is better served increasing investment in existing organisations. For example; in its role as the cybersafety organisation of New Zealand, NetSafe addresses the issue of digital media literacy.

As an independent organisation, NetSafe is able to involve multiple stakeholders in education initiatives including the government, corporate, and civil society sectors. State agencies would struggle to juggle their role as a regulator with a need to include those they regulate.

Q11: Would a greater emphasis on media literacy be useful to New Zealand audiences in order to identify and avoid undesired content sourced from overseas?

Yes: Greater media literacy is useful to all consumers. It is a foundation skill for modern citizens (sometimes referred to as cybercitizens). It should be noted that the field of digital media literacy extends beyond the realm of broadcast content. The principles underpinning digital media literacy apply equally to static websites, digital images, digital audio and online text.

Are there any other measures that should be considered?

It is important to recognise that identifying and avoiding undesired content is not the only role of media literacy. In this digital environment, all users will be exposed to content they did not deliberately seek out. Media literacy education will also produce increased resilience in those who are exposed undesired content.

Q12: Should these roles be part of the mandate of New Zealand's Content Regulator?

No: See answer to Q10.

However, the BSA should be supported to increase education around the content regulation framework.

Q13: Should it have a similar educative and collaborative role in relation to other matters such as, for example, the interests of children and young people?

No: See answer to question 10 and 12

Q14: Are a single set of broad concepts as a basis for content regulation more, or less, important in an era of increased choice in content and in the ways of receiving it?

More important: They can provide a practical and applicable framework for a tiered model of regulation.

Q15: a) Should the concepts currently guiding the standards applying to broadcasting continue to apply to broadcasting?

Yes

b): If yes, should they apply more widely across the scope of content regulation - that is, beyond conventional broadcasting?

Yes: Although with increased flexibility.

c): Are the different concepts that should be added or substituted for those in the act, and applied either to broadcasting or to a wider range of content.

No.

Q16: Do you have a preference between these two possible approaches?

Yes. It would be good to bring the standards applying under the Films, Videos, and Publications Act in alignment with the broadcasting standards. Just as the lines between broadcaster and consumer are blurring - so are the once clear boundaries between types of content.

If I post a short film on YouTube, is it TV - or is it a movie? How does that change if it plays in a theatre at a film festival, or if I burn it to DVD and sell it at the markets?

Q17: Does this principle, as currently expressed in the Act, remain important in an era of increasing variety of outlets for information?

Yes: However, media balancing content by having alternative viewpoints in the "same programme or in other programmes within the period" relies on a linear and structured viewing regime - and that is not how media will be consumed in the future. Browsers of digital content are far less linear and more likely to only partially consume content.

This means that it is more important to ensure fairness and accuracy in all content so that whatever content is consumed - it provides a fair treatment of subject matter.

Q18: If the principal of balance remains important in conventional broadcasting, should it apply more widely if the scope of regulation is widened beyond conventional broadcasting.

Yes, absolutely. For most of the younger generation, the internet has surpassed traditional media as a source of information.

Q19: To what extent is the achievement of accuracy dependent on the availability of balance of views

a) within a broadcast programme, or other audio visual content?

- b) Across broadcast programmes, or other content, by the same provider of content?
- c) Across the media as a whole

There are two parts to this equation. Firstly, any bias must be made known to the content consumer. This has different implications for different types of producer. We have different expectations from a professional news broadcaster than we do of content generated by individuals.

The second and critical component is the consumers ability to correctly interpret and apply the effect of any bias.

The ability of consumers to interpret bias is part of a digital media literacy programme. The divulging of the bias is a broadcasting standards issue.

Q20: Do you have comments on aspects of content regulation that are not covered by the questions above?