

WON'T SOMEBODY THINK OF THE ADULTS?

The Rudd government's proposed censorship regime will slow internet access and hand criminals a directory of illegal content, writes **Mark Newton**

Much has been written about the Rudd government's proposed 'clean feed' internet censorship regime. But it isn't until you delve into the policy's unintended consequences that some of its biggest problems come into view. Shamefully for the government, these consequences are entirely predictable for those with a solid grasp of how the technology works. A growing mountain of criticism rightly targets the policy's cost, its likely performance impact, the impossibility of its meeting required reliability standards, its expense, and the fact that its compulsory nature violates an ALP election promise.

But further gems of controversy have attracted little attention, and deserve to be brought to light. None are particularly complicated; all are damning.

Before we begin, let's explore the technological issues by way of analogy.

Imagine for a moment that the postal service employs censors that operate as the government's proposed ISP-level filter would for the internet. These postal censors open envelopes as they pass through post offices, examine their contents, and refuse to deliver posted items that violate some unstated criteria set by the bureaucrats in charge of the system.

If you don't like this regime and want to get around it, you can make

an arrangement with a private mail delivery service operating from a different jurisdiction. To them, you say, 'I will send you envelopes that contain other envelopes that contain my actual mail. The inner envelopes are stamped and addressed for my actual recipients. When you receive my mail, please strip off the outer envelope and deliver its contents to the recipient.'

Under this arrangement, the censors will still open your mail, but being simple-minded creatures, they will conclude that your mail contains no controversial material, just envelopes. The letters will reach your private delivery service relatively unmolested, and there they will be 'de-encapsulated' and re-mailed to their destinations. Likewise, the censors will find that mail posted to you contains nothing but envelopes, and will pass it on whatever those envelopes' contents.

This describes a very low-tech version of what those in the networking technology game call a virtual private network (VPN), and the way it would interact with the government's proposed censorship system. Such VPNs are the basis of quite a number of the unintended consequences the government has failed to consider.

If an internet user availed themselves of free access to an open VPN, their traffic would become opaque to the government and

immune from the effects of the censorship system. Accessing a VPN is as simple as installing a free browser plugin, and requires no technical knowledge.

So, where would that leave us?

To begin with, it would leave us in the same situation we were in before—with uncensored, unfiltered internet access—only several hundred million dollars poorer. All we would have to show for the money spent on the censorship system would be the inevitable slowdown it would cause.

But the effects of widespread VPN use run deeper than this.

Subscribers who use VPNs present the appearance of being on a part of the internet in whatever jurisdiction the third-party arrangement has been made. This is usually the United States. Australian internet subscribers would 'look like' American subscribers, enabling access to American sources of online content that are currently denied to Australians. Copyright holders would likely be unhappy with this state of affairs, observing that their much-valued regional distribution

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rights had become worthless as all their customers ‘relocated’ to the US. Of course, subscribers who actually intended to violate copyright would flock to VPN technology as the new censorship regime drew more attention to VPNs’ ability to provide anonymity.

In addition to ‘relocating’ internet users, VPNs also encrypt network traffic. This has some profound effects on criminality and law enforcement.

A natural side effect of the implementation of mandatory government censorship would be to encourage criminals to use VPNs, because the kinds of network activity these people intend to carry out would be inhibited by the censorship system, leaving them with little alternative.

Once they were encrypting their traffic, the telecommunications interception warrants used by law enforcement would be useless. A police officer cannot do anything productive with an encrypted data stream: it holds no value as evidence. It is virtually inevitable that some criminals would go free for lack of evidence against them once the Conroy firewall was in place.

It would be bad enough if the government’s policy stopped at merely protecting criminals, but Minister Conroy’s proposed ‘clean feed’ would go a step further by actually helping them find illegal material.

The minister’s aim is to have every internet service provider (ISP) in Australia carry out mandatory censorship using a blacklist of prohibited content supplied by the Australian Communications and Media Authority (ACMA). The blacklist would need to be distributed to several hundred ISPs, and would be accessible to several thousand technical staff. The information security implications of this are

obvious. Taking such a sensitive, secret resource and distributing it to thousands of people guarantees that the blacklist would eventually leak.

When it leaked, it would be published on the internet. If the list is even half as accurate as the minister claims it will be, the effect of that publication will be to make what Andrew Symons has dubbed ‘The Australian Federal Government’s Yellow Pages of Evil’ available to every child-exploiting abuser on the planet, directing criminals in all corners of the world to a smorgasbord of illegal content.

The Labor government would need to explain why it thought that unknowable quantities of ‘collateral damage’ all over the world was an acceptable price to pay for Australian internet censorship. Of course, that somewhat alarming outcome is predicated on the trustworthiness of Minister Conroy’s claim that only the most outrageously illegal material would be blocked. A diligent enquirer might wonder whether that is true.

In a Senate estimates committee hearing on 20 October 2008, Minister Conroy confirmed that the existing ACMA prohibited online content list would form the basis of the mandatory ‘illegal material’ censorship scheme. The problem is that the ACMA prohibited online content list doesn’t actually restrict itself to illegal material. In addition to the illegal material Minister Conroy would like to ban for adults, the list also contains material the Office of Film and Literature Classification (OFLC) has refused classification but which may still be legal to possess (if not to sell, hire, exhibit, or import) in Australia, as well as material rated X18+, R18+ material not protected by an adult verification service, and some MA15+ material. Material in these categories is mostly legal in Australia.

The ACMA prohibited online content list also contains a class of material that hasn’t been examined by the OFLC, but which, in the opinion of ACMA bureaucrats, ‘would be’ classified into one of the categories of prohibited content described above. But because the blacklist is secret, unaudited, and specifically exempted by legislation from the FOI application process, the OFLC would never get a chance to check the accuracy of these classifications—unless they downloaded the list once it was leaked.

That brings us to the most pernicious of unintended consequences: nobody would know (at first) what had been banned. Our society accepts that it is up to the courts to determine what is illegal. We do not then expect faceless public servants in the ACMA to be the real arbiters of an internet content blacklist. Yet Minister Conroy, who has established a remarkable track record of being wrong in this area, expects Australians to simply take his word for it when he says that ‘illegal material is illegal material.’

It is clear that a great many Australians disagree, despite Senator Conroy’s hysterical accusations that to do so is to endorse child pornography. In a nation that has enjoyed uncensored access to online services (including those that predate the internet) for over three decades without ill effect, imposing a national censorship regime such as the one proposed by Minister Conroy is a radical act that requires radical justification.

We are over a year into this debate, and still none of these concerns have been addressed. It is high time for the Labor government to abandon this policy. To the government I ask, ‘Please, won’t somebody think of the adults?’