// ENGAGING NEW MEDIA /

/ CHALLENGING OLD ASSUMPTIONS

A report by the Advisory Council on the Impact of New Media on Society (AIMS)

December 2008

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FOREWORD

In April 2007, the Minister for Information, Communications and the Arts, Dr Lee Boon Yang, appointed us to the Advisory Council on the Impact of New Media on Society (AIMS). Our task is to study the implications the fast-developing new media would have on our society and suggest ways to manage them. This report, *Engaging New Media: Challenging Old Assumptions*, is our first.

It is the product of eighteen months of research, consultation and deliberation. We consulted widely, both in Singapore as well as abroad. New media practitioners, academics, industry players, regulators as well as members of the public generously shared their expertise and views with us.

As this is our first report, we decided to gather low-hanging fruit. We chose four time-sensitive issues: e-engagement, the regulation of online political content, the protection of minors and intermediary immunity for online defamation. Our overall objective was to find ways for our people to derive maximum benefit from new media while minimising its abuse.

In the course of our work, we watched with great interest how the enormous power of the Internet was harnessed. There were two vivid examples. In March 2008 across the Causeway in Malaysia, during the general elections, online campaigning benefited those who used new media effectively. The Barack Obama campaign in the United States used the Internet to mobilise the young and raise record sums of donations. But just as evident was abuse of the new media. Emotive, slanted and misleading material was widespread online, debasing the quality of debate, and cost some political contestants precious votes.

In August 2008, we released a consultation paper and invited the public to examine our ideas and give us fresh ones. The following six weeks turned out to be a tremendous learning experience. We reached out to people using both new and traditional media. We had face-to-face dialogues. The public response was most gratifying. We were cheered that many people evidently studied the paper in some detail. They were a great source of fresh information and ideas.

We were also greatly encouraged by their support for our key recommendations. Most agreed with us that e-engagement should be stepped up and that regulations governing online political content should be liberalised, although there was no unanimity over how far we should go. There was widespread support for the need to provide more resources to give minors greater protection from harmful content in cyberspace, like pornography. The public also welcomed greater legal protection for those in industry providing online content. Not unexpectedly, the range of public opinion was wide. That enriched the discussion.

My colleagues and I want to place on record our deepest appreciation to all those who responded to our consultation paper either online, offline or face-to-face. They helped to shape our report. We are indebted to them as well as those we consulted in our travels.

My thanks, too, to AIMS Deputy Chairman, Professor Tan Cheng Han, the Chairman of the Working Group, Mr Charles Lim, and members of the AIMS Council and Working Group. I value their expertise and the collegial approach taken in our deliberations. They helped make our work stimulating and meaningful.

Cheong Yip Seng
Chairman
Advisory Council on the Impact of New Media on Society
December 2008

// Introduction /

INTRODUCTION

1.1   Over the last few years, the rapid growth of new media has dramatically transformed the way we communicate, live and work. In the process, new and increasingly complex social, ethical, legal and regulatory issues have emerged which society and policy makers will have to grapple with. For example, problems such as protecting children from access to harmful and inappropriate content, Internet addiction and cyberbullying have become more pronounced. At the macro level, issues such as how Government can continue to play a role in managing social tensions and maintaining a balance between individual expression and communal values will need to be addressed.

1.2   To review these issues, the Advisory Council on the Impact of New Media on Society (AIMS) was established in April 2007. Chaired by Mr Cheong Yip Seng, formerly the Editor-in-Chief of the English and Malay Newspapers Division at Singapore Press Holdings, AIMS is made up of 13 professionals and academics from diverse backgrounds. Professor Tan Cheng Han, a Senior Counsel and the Dean of the Law Faculty at the National University of Singapore, is the Council's deputy chairman. Annex A provides the full list of AIMS members.

Terms of Reference

1.3   The terms of reference of AIMS are:

   (a) To study the far-reaching social, ethical, legal and regulatory implications of a rapidly-growing Interactive Digital Media (IDM) sector; and

   (b) To make recommendations to the Government on how these issues should be managed while keeping pace with the development of IDM in Singapore.

The Process

1.4   To gain a better understanding of the concerns of various stakeholders in new media, AIMS consulted media and telecommunications industry players, educators, bloggers, academics, non-governmental organisations and relevant government agencies, both in Singapore and overseas. A cross-section of Singapore society, from different backgrounds, was also consulted. Focus group dialogues were conducted in the first quarter of 2008 to understand the new media habits of Singaporeans. These qualitative studies have given valuable insights into the importance of new media in the lives of Singaporeans. The focus group sessions were conducted by a research firm we commissioned. AIMS also paid close attention to how the new media

played a part in Malaysia's general election in March 2008 as it provided an interesting and timely case study.

1.5   To get a sense of how other countries are grappling with new media issues, AIMS travelled extensively, to the US, Australia, the United Kingdom, Canada, China, Japan, and South Korea. Annex B contains a list of organisations we visited.

Engagement Exercise

1.6   The AIMS consultation paper was released to the public on 29 August 2008 at a press conference during which mainstream journalists, as well as online journalists were invited. Journalists from The Online Citizen also filmed the event and posted a video of it on YouTube. Following this, AIMS conducted a six-week engagement exercise to invite feedback and responses from the public. To achieve this, AIMS posted the consultation paper on its website and made it available to be downloaded. Additionally, AIMS introduced its paper on its online forum and reached out beyond its website, by starting a thread on HardwareZone[1]. AIMS also started a blog on its website to keep the public informed of its progress.

1.7   During the six-week engagement exercise, AIMS received numerous email responses, gathered feedback and participated in several online forums and blogs. AIMS received 87 emails and SMS messages from the public. There were 185 forum posts which were viewed 7,620 times. A sampling of the feedback received can be found in Annex D. Organisations and corporate stakeholders likely to be affected by the recommendations were also invited to respond.

1.8   AIMS had also arranged numerous face-to-face meetings and discussion dialogues with various segments of the public to ensure that any gaps in the feedback received were addressed.

1.9   On 19 September 2008, AIMS held a public forum[2] to which an open invitation was issued to members of the public. More than 40 people, as well as representatives from the media, attended this event.

1.10   The Council sought to take into account the opinions and views of the public on the issues raised in its paper. Many of the responses were detailed, insightful and well-argued. They were a great help to the Council in the preparation of this report, for which the Council is truly grateful.

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1   HardwareZone forum is a popular local technology forum.

2   The public forum was co-organised by the Institute of Policy Studies and the Faculty of Law in the National University of Singapore and held in the Faculty of Law, NUS.

1.11   For this first AIMS report, we decided to deal with four time-sensitive issues: e-engagement (or how the Government can use new media to better interact with the public), the regulation of online political content, the protection of minors and intermediary immunity for online defamation.

1.12   Some of the recommendations in this paper incorporate ideas and best practices developed in other countries. While we have learnt from these foreign agencies, not all of their practices can be applied in the same fashion here. These best practices must be viewed in the context of differing cultures, community sensitivities and political systems. Singapore's unique circumstances have to be taken into account. In some areas, we have to chart our own path as there is no model to learn from.

Guiding Principles

1.13   Our work was guided by the following four principles:

(a) **Government regulation should be used as a last resort**

1.14   One of the long-standing debates about the Internet is whether it should and can be regulated. Given the borderless nature of the Internet, it is difficult to enforce laws regulating the Internet across different jurisdictions.

1.15   Hence, one principle is to avoid regulating what is arguably "unregulable". Laws are important, but they should be used only as a last resort. As the maxim goes, "legislate in haste, repent at leisure". Using laws as a first measure to deal with online problems is unwise as the Internet and its users are continuously evolving and can creatively route around laws and regulations, especially if they are not well thought through.

(b) **"Free-for-all" is not feasible**

1.16   However, placing less emphasis on regulation does not mean that there should be no regulation. The key issue is, what kind of regulation can allow us to harness the benefits of the Internet while minimising the potential for harm? Many dangers lurk in cyberspace and there should be regulations that society can call upon to address such dangers. In all the countries we visited, the consensus is that some regulation of the Internet is necessary, even though enforcement is difficult. Some countries regulate more than others. The question then is how the regulation should be effected.

1.17   In Singapore's multi-racial and multi-religious society, it is paramount that racial and religious harmony be maintained. Few, if any, dispute that any attempt to disturb harmony in society with racist or hate speech online

or offline must be dealt with swiftly. Even within the more culturally and ethnically homogeneous countries in Europe, denial that the Holocaust occurred is a crime.[3] In all the countries we studied, persons responsible for harmful online material like child pornography, sexual predatory practices and sexual grooming face the full force of the law. Where the risk of harm is high, there should be legislation. Conversely, where the risk of harm is low or moderate, the imposition of legal controls should be avoided.

(c) Shifting the focus from regulation towards engagement

1.18 All sorts of opinions are espoused via the Internet, whether moderate or extreme, reasoned or irrational. Traditionally, the Government's regulatory efforts have been focused on containing extremist and harmful content. Moving forward, the emphasis should be on leveraging on the opportunities that the Internet provides for enhanced communication and engagement between the public and Government.

1.19 There are many groups of people who are utilising the Internet to advance political and civic discussion in a measured and reasoned manner. They want to be heard and are willing to contribute time to thinking about and proposing solutions. This should be encouraged. It should also be noted that there is a difference between being heard and being watched. Netizens want to be heard, not watched.

(d) Community participation is key

1.20 The sheer amount of content available on the Internet makes it impossible for any one agency to monitor and regulate it efficiently. The wider community has a role to play in fostering an online environment which is conducive to the good of society. A relationship built on trust among all parties is more likely to last compared to one built on a list of do's and don'ts. One good example is the former Parents Advisory Group for the Internet (PAGi), a volunteer group made of parents that served as a support network to share ideas and concerns on guiding their children on the use of the Internet.[4] Similar volunteer groups should be encouraged and supported.

Keeping an Open Mind

1.21 Harnessing the best of the technology available will require all parties to keep an open mind. As the new media challenges old assumptions, we

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3   EU states with laws against holocaust denial include Austria, Belgium, Czech Republic, France, Germany, Lithuania, Poland, Romania, and Slovakia.

4   The Parents Advisory Group for the Internet (PAGi) was a volunteer group set up in November 1999. Consisting of parent volunteers, PAGi was committed to creating a safer Internet environment for children. PAGi served as a support network for parents to share ideas on how they could guide their children's Internet use. PAGi had conducted numerous outreach programmes to educate parents. In 2006, PAGi was combined with other MDA's committees to form the Community Advisory Committee under the former National Internet Advisory Committee.

should all be open to discarding old attitudes and embracing new ones. This applies to both the government and the citizens. Without a mindset shift, we will not be able to reap the full benefits of the new media. At the same time, we should always be mindful of the need to protect Singapore's interests, social values and institutions.

1.22   The Council is aware that these recommendations will not satisfy everyone. There is always room for improvement and there will be areas which require closer study. The Internet is a never-ending worldwide conversation. We see the recommendations in this report as part of an ongoing conversation which started when the Internet became a part of our lives.

// Executive Summary /

EXECUTIVE SUMMARY

2.1 New media has changed the way we communicate, work and live. The extensive use of broadband Internet and mobile phones in Singapore reflects the positive attitude that Singaporeans have towards new media. However, it is not without risks. Along with its many benefits come new social, legal, regulatory and ethical concerns.

2.2 The Advisory Council on the Impact of New Media on Society (AIMS) was formed by the Ministry of Information, Communications and the Arts (MICA) in April 2007 to focus on these concerns. The Council was tasked to study the impact the rapidly developing interactive digital media sector has on our society and to make recommendations to the Government on how best to deal with it.

2.3 Over the past year, AIMS consulted media and telecommunication industry players, educators, bloggers, academics, non-governmental organisations and relevant government agencies in Singapore. Focus group dialogues with over 100 Singaporeans, from a broad cross-section of the public, were also conducted to understand the new media consumption habits of Singaporeans. Insights into how other countries were grappling with the new media were also gleaned from study trips to countries such as Australia, Canada, China, Japan, South Korea, the United Kingdom and the United States.

2.4 AIMS released its consultation paper on 29 August 2008 to gather public feedback online as well as offline for six weeks till 10 October 2008.

2.5 For this report, AIMS has decided to focus on four time-sensitive areas. They are: (a) e-engagement, (b) regulation of online political content, (c) protection of minors and (d) intermediary immunity for online defamation.

(I)   E-Engagement

2.6 We examined how recent developments in the new media landscape have transformed how individuals communicate with one another. We also noted that new media is changing the relationship between the state and its citizens.

The Social Web

2.7 Web 2.0 promotes collaboration, interaction and networking between individuals online. This in turn has a transformative effect on individuals. Many are no longer content with passive consumption of content. The Internet has evolved to become a medium where people interact and share content with friends, families or like-minded people in a

conversational and participatory manner.

Mass Democratisation of Information

2.8   New media technology enables people to search and find new sources of information, news and views beyond Singapore's shores. The Internet has become a significant platform for people who seek alternative views. Studies have shown that while people still rely largely on traditional media for news and views, they head online for diversity of opinions. People are exposed to new ways of thinking, new methods of speaking and new modes of interacting. With the Internet at their fingertips, individuals can challenge, rightly or wrongly, any interpretation of events.

New Media as Public Forum

2.9   Groups of citizens are heading online to discuss, comment and reflect upon issues of public interest. There is a plethora of conversations being conducted online and anyone can join in. Whilst many participants are well-informed and thoughtful, there is no "quality control" in the new media. All voices have equal opportunity to be seen and heard.

2.10   These trends call for a need to re-examine how the Singapore Government engages with its citizens. The Government, although having a significant presence online, has adopted a cautious approach to engaging and responding directly with the public though new media. It still prefers to do so using traditional media However, as the new media becomes increasingly influential, there is a need to reconsider this approach.

Engaging Online

2.11   There are already a range of channels which citizens can use to reach policy makers and other key decision makers. From face-to-face dialogues to weekly meetings with Members of Parliament and increasingly via cyberspace, citizens have many avenues to contact Government leaders.

2.12   Indeed, the Government's use of the Internet is extensive. Its e-government facilities rank among the best in the world. Government agencies regularly publish consultation papers online. Through a slew of tools such as e-mail, blogs and forums, it provides many opportunities for Singaporeans to have their say online.

2.13   However, is this enough? The new media landscape has thrown up many challenges for governance. At the same time, the online space provides a unique opportunity to develop a different kind of engagement and one that, if done well, will be beneficial to society as a whole.

E-Engagement – A Sustained Form of Interaction

2.14   AIMS defines engagement as a sustained form of interaction between Government and citizens on issues of public policy. It is akin to a conversation taking place among many people where there is a constant flow of information and views. All views are brought to the table to be listened to and discussed.

2.15   This is different from current modes of consultation. As currently implemented, consultation is largely at the instance and initiation of the Government. The Government decides on what it wants discussed, and typically invites responses to a consultation paper. Citizens who participate respond directly to the Government. In contrast, engagement envisages a more "bottom-up" process where there is a plurality of conversations – many initiated by interested citizens – and involving a large number of participants.

2.16   New media technology enables the development of this interactive and iterative form of engagement.

2.17   However, e-engagement, thus defined, is not the norm. There are structural, cultural and institutional barriers. For one, policy makers, well entrenched in the traditional processes of decision-making, may be loath to relinquish some of their authority and share the power to formulate the issues and topics for discussion with the general public. Experts may doubt the ability of citizens to grapple with complex issues and provide useful inputs. On the other hand, citizens may be sceptical that policy makers truly wish to hear their views.

Recommendations

» Embark on e-engagement

2.18   Despite these reservations, AIMS recommends that the Government push further ahead with e-engagement for several reasons.

2.19   From focus group discussions with Singaporeans, we found that many were not aware of the Government's online consultation efforts. They were also sceptical of the Government's intention to gather feedback.

2.20   Furthermore, to not engage online is to risk alienating groups of individuals who have grown up around the Internet, computers and digital devices. To many of these "digital natives",[5] using the Internet to communicate

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5   The concept of the "digital natives" and the "digital immigrants" was proposed by Marc Prensky in 2001. "Digital natives" describes the generation of people born into the digital world and are "'native speakers' of the digital language of computers, video games and the Internet". "Digital immigrants" are those born in an age before computers and have adapted to the new environment. Prensky suggests that despite being adaptable, digital immigrants will always retain a "digital immigrant accent" and instinctively react in the traditional manner they were originally socialised to react. Prensky, M. (2001). Digital Natives, Digital Immigrants. On the Horizon, 9(5), 1-6.

is second nature. If they continue to gather news and views online while the Government stays at an arm's length from new media, there is a risk that these citizens will feel increasingly disenfranchised, disengaged, and alienated.

2.21 From feedback received, AIMS found that public support for e-engagement was strong, although concerns were raised over how e-engagement could be done.

» **Further study is needed to ensure successful e-engagement**

2.22 It would be wise to proceed with some caution. Experience elsewhere shows that e-engagement has risks if not properly thought through and implemented. Confusion and division can result. It could cause more harm than good. Therefore, AIMS proposes that the Government carefully studies how best to utilise new media to engage its citizens. To do so, the Government could continue to invest in research and learn from countries which have started the process of e-engagement. It should do so expeditiously because the digital world moves at great speed. The experience of other jurisdictions, even if limited or not entirely transferable to Singapore, is worth studying.

2.23 These points are worth bearing in mind:

   i.   An evolutionary, rather than a revolutionary, approach should be taken.

   ii. Regular and open channels should exist for netizens and Government to interact.

   iii. Community is important as it plays a vital role in e-engagement.

   iv. Engage a range of stakeholders on a range of issues.

   v.   Engagement is not about finding agreement on all issues.

» **Next steps**

2.24 Going forward, there are several concrete steps that can be taken towards this end:

   i.   Evaluate the capacity of the Government to communicate effectively online. Dedicated manpower resources will be required.

   ii. Rethink some of its current citizen engagement processes. The Government should examine what it means to listen and adjust its processes with this desired outcome in mind.

   iii. Engage voices outside of current Government platforms. For instance, it might be useful to join in the conversation that is taking

place in the blogosphere, instead of hoping that the conversation gravitates to existing Government-operated sites like REACH (Reaching Everyone for Active Citizenry @ Home).

iv. Set up a panel of young digital natives to serve as a consultative body. The young are often ahead of the curve and up-to-date on the latest developments and trends in the digital world.

v. Consider giving more space to civil servants to voice opinions. The Government should consider reviewing the policy on civil servants speaking on issues of public interest. This will help give greater clarity to them on the space they have to engage online. This group of citizens can be a useful resource.

(II)   Online Political Content

2.25   New media technology has radically changed the way political contests are fought the world over. In the case of the March 2008 General Election in Malaysia, the result was quite remarkable. In the case of the U.S. Presidential Election that took place in November 2008, the importance of new media is already apparent. Clearly, the new media offers opportunities for the dissemination of political content and views which is readily embraced by digital natives. It is therefore timely to review existing regulations governing the online dissemination of political content. Current regulations have been criticised as being too broad and vague. While such laws might have been effective in curbing the excesses of irresponsible speech, they may also unduly limit the use of what can be a valuable, and probably indispensable, channel of communication.

2.26   Rapid developments in technology since Section 33 of the Films Act was enacted 10 years ago have rendered it irrelevant and extremely difficult to enforce. Meanwhile, Singapore's socio-political landscape has changed and Singaporeans increasingly want greater political expression.

2.27   The overarching intent of our recommendations is to liberalise existing regulations to encourage active, balanced online political discussion while minimising the adverse effects that such changes could bring.

Recommendations

» Update the Internet Class Licence Scheme

2.28   During our consultations with the public, the need for the Internet Class Licence Scheme was questioned. It was suggested that it be dismantled. Not everyone agrees with this view, however. AIMS believes that the Class Licence Scheme is still relevant in today's new media

environment. We note that the scheme is a complaints-based system. Under this scheme, the Government practises a "light-touch" policy which has proven effective. It is better to continue with this policy than to remove the scheme and then resort to laws like the Penal Code, which is relatively more heavy-handed.

2.29   However, AIMS recognises that twelve years have passed since the Class Licence Scheme was first established in 1996. We have reviewed the matter and feel that changes are in order for these reasons: First, the rules unnecessarily deter free speech. Second, it has hardly been enforced. Third, Singaporeans deserve more political space. We therefore make the following recommendations:

(a) **Lift registration requirement for individuals, bodies of persons and political parties.**

AIMS recommends the removal of the registration requirement for individuals, bodies of persons and political parties that provide any programme for the propagation, promotion or discussion of political or religious issues relating to Singapore through the Internet websites.

(b) **Make processes of the Class Licence Scheme more transparent**

The Media Development Authority (MDA) should study how to make the existing processes more transparent to assuage netizens' concerns that these rules are in place to clamp down on them. For example, details of MDA investigations should be made public so that people can judge for themselves whether the processes and decisions were fair.

» Extend positive list for Internet election advertising

2.30   Under present regulations,[6] only political parties, their candidates and their election agents may carry out prescribed election advertising activities using new media during the election period. There is a "positive list" of permissible election advertising on the Internet. They are allowed to post photographs or representations of their candidates, party histories, biographies of candidates and their manifestoes on their websites. Political parties are also allowed to host moderated chat rooms and discussion forums on their websites. The use of e-mail to promote or oppose a party or candidate is also allowed, subject to certain conditions.

2.31   We recommend that the Parliamentary Elections Act should be changed

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6   Parliamentary Elections (Election Advertising) Regulations (Chapter 218), Regulation 3.

to allow more digital content by expanding the positive list for Internet election advertising. The present list is too restrictive, and denies political contestants greater use of digital technology, which value has been well demonstrated. The extended list should include videos or recordings of live events, such as election rallies, party press conferences and constituency tours. Broadcasts of party manifestoes and stories already aired over radio and TV should also be allowed. So should the use of Web 2.0 technologies, such as blogs and social networks.

2.32   Allowing use of Web 2.0 tools ensures that regulations keep pace with changing technology. With this amendment, all election candidates and their political parties and agents can use podcasts, vodcasts, blogs and other new media tools to promote themselves, their agendas and election manifestoes.

» Liberalise Section 33 of the Films Act

2.33   There is a need to liberalise Section 33 of the Films Act that prohibits the making, distributing and exhibiting of party political films. The key reasons are:

i.   The ban on party political films is too wide-ranging and stifling as the definition of a party political film could cover any film that touches on politics or government policies. As a result, films that clearly contribute to well-informed, rational and insightful debate cannot, in theory, be made and exhibited.

ii.   Technology has out-paced the law and has made it extremely difficult to enforce. Section 33 can be bypassed using YouTube or other online video-sharing services that cannot be blocked or otherwise regulated without serious damage to Singapore's interests.

iii.   Other legislation is in place to deal with potential threats to our society, like the exploitation of race and religion for political purposes.

iv.   Since the introduction of Section 33, Singaporeans have been exposed to a wider spectrum of content online, thanks to extensive use of broadband technology. The present legislation is simply too restrictive.

v.   In recent years, new media technology has proven to be an important platform for political purposes. There is no reason why it cannot be responsibly used by political parties and the public at large.

2.34   AIMS has looked at how other countries deal with such issues. Japan and South Korea regulate the use of new media technology for political

purposes, though not in the same way as in Singapore. Other countries have no restrictions at all. Singapore cannot blindly adopt what is done elsewhere especially when there is no single "best practice" to follow. We must find solutions that suit our own circumstances. What we should achieve is maximum space for political discourse, but be sensitive at the same time to the need to keep out harmful material online. We believe there are three main ways to liberalise this law. One would be to narrow the scope of the law. Another is to repeal Section 33 altogether. The last option is a combination of the first two options, namely narrow the scope of the law first with a view to eventually repealing it. The three options were submitted to the public for discussion.

2.35   It is, in theory, possible to prohibit political films that are clearly misleading. These could be films that dramatise events, edit footages or splice images together to distort facts and mislead the viewer. We could therefore re-word the definition in the Act to keep out such films, while expanding the space for political discourse. However, the key challenge is the difficulty in defining what distinguishes misleading films from those that should be considered to be valuable and harmless to society as a whole.

2.36   One approach might be to establish an independent advisory panel which should be made up of citizens of high standing, who are non-partisan, and whose views carry weight with the public. The panel's work should be transparent and its decisions should be made public in order to inspire confidence in its judgments. Its work will however be made even more difficult by technology. In the digital age, films that are denied classification or prevented from being distributed will simply be distributed via YouTube or other video-sharing services. Furthermore, if there is public dissension from the views or decisions of the panel, the entire system may be called into question.

2.37   Another way of liberalising Section 33 of the Films Act would be to repeal it. However, if Section 33 is repealed in its entirety, various risks should be managed. AIMS has considered the following ideas which are discussed in detail in Chapter 2:

(a)   Classification rating for political films;

(b)   Notification and right of reply; and

(c)   Restrict the distribution and exhibition of party political films under the Parliamentary Elections Act.

2.38   If Section 33 is repealed, AIMS proposes that the risks that follow be managed in a more targeted manner by restricting the distribution and exhibition of party political films during elections period under the Parliamentary Elections Act. The proposal is to impose a blackout period for party political films issued by political parties, candidates and

their agents as well as individuals during the election campaign period, beginning from the issue of the writ of election to the end of the polling day. During this blackout period, political parties, candidates and their agents as well as individuals are not allowed to distribute or exhibit <u>new</u>[7] party political films as defined under the present Films Act.

2.39   This is again open to criticism. The incumbent political party may be said to have prior knowledge of when a General Election would be called, and may release party political films just before elections are called. In any event, the ability of films to cast an effect on elections may persist long after a film is first shown. Nevertheless, between a "free-for-all" regime, where there are no controls whatsoever, and a "not-at-all" regime, where all online election campaigning is disallowed, we think that this option is a possible compromise.

» Repeal Section 33 in phases

2.40   After much consideration, AIMS recommends repealing Section 33 in phases. We do so for the following reasons: First, the public, like AIMS, accepts that concerns over misleading material are valid. An immediate and outright repeal of Section 33 does not adequately address those concerns. Second, there is value in giving the community an opportunity to evaluate how narrowing the scope of the law would work in practice. Third, while we accept that video-sharing sites like YouTube can allow the law to be circumvented, our recommendation will restrict circulation of prohibited material offline, for example in public screenings and through DVDs. Fourth, partial repeal will assuage the concerns of respondents arguing against total repeal. Therefore, it would be more prudent to abolish the law in stages, rather than immediately and unconditionally.

2.41   As a first step, the Government should decriminalise the making of party political films and narrow the scope of the law to target only party political films that are made to intentionally mislead viewers.

» Section 35

2.42   We did not review Section 35 of the Films Act. However, we received feedback arguing for its repeal. This law essentially gives power to the Minister to ban any film that is against the public interest. Thus far, there is just one film, "Zahari's 17 Years", that has been known to be banned under this law.

2.43   AIMS is in favour of keeping Section 35 because there are indeed films that are against the public interest. One example of such a film is "Fitna", a film produced by a Dutch film-maker that attacked Islam

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7   Party political films released after the issue of the writ of election.

and which was widely condemned by the general European public. The Government should have the power to deal with such films. AIMS also notes that the Government has used this power very sparingly, as it should be. However, to address concerns of those who fear that Section 35 would be used to limit political debate, we recommend that it should be amended to spell out clearly on what basis the Government should ban a film contrary to the public interest. In addition, AIMS recommends that the independent advisory panel for party political films should advise the Minister before a film is banned under Section 35 and the Minister should be obliged to give reasons for the ban.

2.44   In conclusion, regular revision of the rules will be needed from time to time as social conditions change. It is probably impossible to completely eliminate the risk of destructive online content. The best defence against distortive material is trust – trust that is hard earned and demonstrated. Furthermore, the continued existence of credible sources of mainstream media will help to ensure balanced and informed discussions. It is also in the best interest of those who use new media to press their case to acquire the communications skills to do so.

2.45   Singapore is best served by political discourse that is well-informed, serious and factual. What we seek to do is to allow voters to consider the issues rationally, and not be unduly swayed by films or videos that mislead or trivialise important issues.

(III)   Protection of Minors

2.46   Protection of minors is a universal concern, and different countries have different ways of dealing with it. Advances in new media technology and the evolving way children are using and adapting to this technology make this a complex issue, rendering short term solutions such as filtering ineffective in the long run. The different needs of children of various ages also means that a "one-size" fits all solution is not feasible. Minors are exposed to a myriad of risks such as access to illegal and inappropriate material, online sexual predators, cyberbullying and addiction.

2.47   Many countries use filters provided by Internet Service Providers (ISP) and/or at the user end to filter out unsuitable content. Filtering is usually complemented with a hotline to report objectionable material. Age verification systems are also used. Most countries also have laws to deal with potential dangers like online sexual predators.

2.48   While the above are useful defences, education is the best long-term solution. Children should be taught to understand new media and the real risks that it poses. The aim is to help children build resilience against harmful influences. Parents and educators, being "digital immigrants", should also learn how to teach children to use the new media safely.

Current Situation

2.49   In Singapore, there have been many cyber safety programmes. All three local Internet Service Providers (ISPs) provide a Family Access Network (FAN) service that delivers ISP-based filtering to their subscribers at the cost of S$2 to S$3 a month. However, adoption rates are low. There are fewer than 15,000 subscribers. There is also a deny-access list of about 100 websites which we understand to comprise of pornographic, and racially and religious extremist content. Singapore also recently amended the Penal Code to criminalise sexual grooming of a minor.

2.50   The MDA and the Ministry of Education (MOE) have developed public education programmes and materials for various target audiences. Community groups like TOUCH Community Services and the former voluntary organisation Parents Advisory Group for the Internet (PAGi) are also involved in helping and educating the community. However, these efforts are often not sustained or coordinated with other agencies. There are gaps to be filled.

Recommendations

2.51   AIMS proposes a holistic and coordinated approach. More resources will be needed to make this a long-term and sustainable solution. It should begin by focusing on these areas:

» Establish an annual fund for the protection of minors

2.52   AIMS recommends that the Government provide an annual national budget to finance the activities listed below. Law and order is a high-priority and costly undertaking in Singapore. Cyber safety should not be of any lower priority. We propose that the annual budget be co-funded by the Government as well as the private sector, with the State providing the bulk of the resources. Co-funding signals the importance of making this a community effort. Industry should give its support because it benefits from a buoyant interactive digital media sector. A safer cyberspace is in the greater interest of the industry.

» Establish a dedicated coordinating agency for the protection of minors

2.53   AIMS recommends that a dedicated agency be set up with the following key functions:

   i.   Develop and implement a national strategy for cyber safety and cyber wellness in Singapore;

   ii.   Coordinate activities and resources across the various Government agencies, industry players and public organisations; and

iii.   Administer the national fund.

2.54   The agency should consist of permanent staff and representatives from various stakeholders, including the public sector, academia, industry, community groups, parents and educators.

2.55   To keep up-to-date, the coordinating agency could tap the expertise of youths.

» **Focus on education**

2.56   Education, though costly and incapable of delivering "instant" results, is the best tool for the development of a long-term framework and lays the foundation for a more informed and self-sufficient population. Parents, teachers and minors should also be equipped with a firm grounding in media literacy.

» **Lift ban on 100 websites**

2.57   AIMS proposes that once the holistic approach suggested above is put in place, the symbolic ban on 100 websites should be lifted. This would be done only when the dedicated agency is satisfied that its programmes are working effectively. We believe this is more effective than relying on an instrument whose symbolic value is very low given new technologies and the large and growing number of websites with undesirable content. While there is merit in symbolism, it becomes counterproductive when parents are given a false sense of security.

2.58   AIMS recognises that removal of the ban may signal a higher tolerance for objectionable material. However, we believe a holistic programme that engages parents, educators and minors can counter any ill-effects from a removal of the ban.

2.59   At the same time, AIMS recommends that the following suggestions be considered for implementation by the dedicated agency:

» **Help parents to monitor and control their children's Internet usage**

2.60   AIMS proposes that the present optional Family Access Network service provided by all ISPs be greater publicised and made more accessible to Singaporean households. This can be achieved by giving the service free to households that wish to have it. The Government can provide subsidies or grants for this.

2.61   Apart from existing filtering resources, other tools which could help parents monitor and control their child's Internet use, could be introduced.

» Develop research capabilities

2.62   Research in Australia and the UK has significantly contributed to the development of innovative programmes and measures in these countries. While we can learn from them, local research is needed to find solutions tailored to our needs.

» Collaborate with overseas counterparts

2.63   AIMS recommends greater collaboration with overseas organisations that are facing similar challenges. Protection of minors is a universal problem and it would be mutually beneficial to share research, ideas and resources. Many websites which host objectionable content are based overseas where Singapore law has no jurisdiction. Collaboration with foreign counterparts could help address this issue. Many overseas organisations have expressed great interest in cooperating with their counterparts in Singapore.

» Encourage a spirit of volunteerism

2.64   Cyber safety is more effectively tackled with community participation. A spirit of volunteerism should be fostered by encouraging more like-minded community groups to be established.

(IV)   Intermediary Immunity for Online Defamation

2.65   Internet communications potentially involve a diversity of other intermediaries. Given the volume of material on the Internet, it is impractical for Internet intermediaries to exercise much control over Internet content. It is potentially a medium of virtually limitless international defamation. Claimants are more likely to bring actions for defamation against borderline defendants for Internet defamation because those who are more directly involved in publishing the material may be difficult to locate or may be residing in a foreign jurisdiction.

2.66   In our discussions with bloggers and industry players in Singapore, it was pointed out that clearer guidelines on their liability regarding online material are needed. As the position on intermediary liability is currently ambiguous and uncertain, new media businesses tend to err on the side of caution. This is not conducive to their growth and consumers are deprived of worthwhile online content.

Singapore Legal Position

2.67   Section 10 of the Singapore Electronic Transactions Act confers immunity from civil and criminal liability to network service providers in respect of third-party material to which they merely provide access. The phrase "network service providers" does not apply to content hosts.

2.68   There is no reported decision of a Singapore court applying the law of defamation to Internet intermediaries. It is therefore uncertain whether the Singapore courts will follow foreign judicial precedents from the US, England or Australia on this subject. This uncertainty is not satisfactory. As regards liability for criminal defamation, a content host may be liable for defamatory remarks posted by a third party if he has knowledge of the defamatory remarks and that they are harmful to reputation.

2.69   There are other weaknesses in the current common law on intermediary liability. Most intermediaries have little incentive to continue carrying, hosting or linking the allegedly defamatory material, and may in the face of a complaint, err on the side of caution and choose the safer path of just removing the material. This may lead to abuse by persons who wish to have truthful but unfavourable published material taken down. Furthermore, an intermediary that takes steps to moderate third-party material is subject to a higher level of liability than an intermediary that does not attempt to moderate or monitor material.

2.70   The current law therefore encourages intermediaries to turn a blind eye to material being carried, hosted or linked and this is undesirable in the context of encouraging credible, responsible and balanced content on the new media. We should improve the environment for credible and responsible new media players to develop and flourish.

Recommendations

» Enact legislation to confer limited immunity upon online content intermediaries

2.71   AIMS recommends that the relevant authorities consider enacting legislation to confer limited immunity upon online content intermediaries such as Internet content hosts and aggregators in respect of civil and criminal liability for defamation with regards to third party content where such intermediaries have acted in good faith.

2.72   In formulating the legislative provision, the relevant authorities should be mindful that it should not be a disincentive to responsible and desired conduct such as moderation by content hosts and aggregators.

2.73   The legislative provision should also not deprive a content host of immunity merely because he had constructive or imputed knowledge of the third-party defamatory material, provided he has acted in good faith.

» Immunity should be subject to the obligation of the intermediaries to take down defamatory content

2.74   In order to balance the rights of individuals to seek redress against false

allegations, this immunity should be subject to the obligation of the intermediaries to take down defamatory content on receiving a credible and authenticated request from the person allegedly defamed. The authorities may wish to consider studying a "put-back regime"[8] based on a counter-notification to protect interests of originators and to prevent abuse of the take-down regime as a means of censoring speech.

2.75   Other considerations, which the Council recommends that the relevant authorities consider, are that there should be no derogation/dilution of the existing immunity granted to "network service providers" under section 10 of the Electronic Transactions Act and that the proposed regime should not impose any additional liability on the intermediaries beyond the existing law.

2.76   All the recommendations above will be discussed in greater detail in the following chapters.

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8   A "put-back regime" involves the intermediary putting back the allegedly defamatory content after receiving a counter-notification, and upon the satisfaction of certain conditions.

E-ENGAGEMENT

3.1   In 2007, HSBC bank wanted to scrap its interest-free overdraft facility that it offered to British students leaving university. Many students depended on this lifeline to tide them over the few crucial months between graduation and finding a stable job. Instead of passively swallowing the bitter pill, the students hit back. The British National Union of Students (BNUS) rallied members to protest against the decision. Such a protest, in itself, is not peculiar but what was interesting was that the protest was organised entirely online and mainly through the social networking site Facebook.

3.2   A Facebook group was set up by the BNUS to bring together those affected or who would be affected by the change. The goal was to get in touch with as many of those affected, inform them of the latest developments and get them to support the protest. Within weeks, the group swelled to more than 4,000 members. The BNUS negotiated with the bank, arguing that many students had opened accounts with HSBC because of this interest-free overdraft facility. After several meetings, the bank eventually back-tracked on its decision. The Vice President of the BNUS Wes Streeting said that "there can be no doubt that using Facebook made the world of difference to our campaign."[9]

3.3   The HSBC example is just one of thousands illustrating how new media can empower peoples' lives. Today, people are creating, distributing and re-distributing content. They use the Internet and social networking sites to learn about the latest food sensation, to complain about a company, to communicate with their friends or to discuss politics and the economy with random strangers.

3.4   In our consultation paper, we examined the many ways the new media has created an impact on society. It is not an exaggeration to say that new media is revolutionising how individuals communicate with one another. It is changing the relationship between the state and citizens. Citizens are demanding more; they are no longer content with having periodic interactions with policy makers and the government through the ballot box. Instead, with the use of technology, citizens seek to make their opinions on public issues heard, whether or not the government cares to hear them. Governments around the world are coming to grips with this change and many are rethinking the way they reach out to their constituents.

3.5   These trends call for a need to re-examine how the Singapore Government engages its citizens who use the new media extensively. While the

Singapore Government has done exceptionally well in building a world-class e-government, thus far, it has adopted a cautious approach to engaging the public through new media and prefers to speak to citizens through the traditional media. However, as the new media becomes increasingly mainstream, there is a need to reconsider this approach.

Trends in New Media

The Social Web

3.6   In our consultation paper, we discussed growing trends in new media. One such important trend is the evolution of new media into a platform that encourages not only mass participation but also collaboration, interaction and even networking. Some observers have termed this development Web 2.0 or the Social Web.

3.7   The term Web 2.0 was first coined in 2004 and popularised by media guru Tim O'Reilly to describe what he calls the second phase of the Internet.[10] Mr O'Reilly sees the Web as being a platform on which people create software that leverages on the Web's mass participatory nature. The Web is no longer just a tool to retrieve information but one which allows people to create, share and distribute content. Blogs, YouTube, podcasting and social networking sites are just some of the platforms commonly associated with Web 2.0.

3.8   Blogging, in particular, is one Web 2.0 phenomenon that has mushroomed in popularity in the past few years. The attraction to blogging is simple; blogging sites make publishing on the Internet simple and hassle-free. Technorati tracks about 112 million blogs online and the number is growing by 175,000 a day, or by about 2 blogs a second.[11] More than 99 per cent of blogs tracked by Technorati do not get a single visitor.[12] There are a variety of blogs, from accounts of personal lives to blogs by professionals who focus on a specific area and have a specialised interest. Some popular blogs eventually take on a commercial outlook with advertising or subscription revenue.[13] These are often indistinguishable from news websites.[14]

3.9   Blogs have become increasingly mainstream since 2004. They have become important for the way they influence opinions and shape news

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10   O'Reilly, T. (2005, September 30). What is Web 2.0. Retrieved Mar 20, 2008, from http://www.oreilly.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html?page=1

11   Technorati. Retrieved Aug 14, 2008, from http://technorati.com/about/

12   Reardon, P. (2007, November 15). Do you know who's been reading your blog. Chicago Tribune.

13   Techcrunch (http://www.techcrunch.com) is a good example of a blog which has gone commercial. It charges US$ 12,000 for advertising on its site. Big names such as Microsoft and Adobe count among their advertisers.

14   An example of this is the Huffingtonpost (http://www.huffingtonpost.com).

stories run by the traditional media. Recognising this, politicians and governments are using them as another way to reach out to voters and constituents. A study done by the IBM's Centre of Business for Government showed that there are some 200 blogs currently maintained by various U.S. government agencies, leaders and elected representatives.[15]

3.10   The official U.S. Department of Defence website has a section dedicated to bloggers called "The Bloggers Roundtable". It provides "source material for stories in the blogosphere concerning the Department of Defence (DoD) by bloggers and online journalists." This includes transcripts, biographies, related fact sheets and video clips.[16] Another U.S. government agency, the State Department, runs an official blog, "DipNote", that seeks to inform people about U.S. foreign policy.[17]

3.11   Blogging in Singapore became popular around 2004 and interest in the activity has grown. Some of the more prominent blogs include "Mr Brown",[18] "XiaXue",[19] "Mr Miyagi",[20] and "Yawning Bread"[21]. Popular blog aggregators such as "tomorrow.sg"[22] and "Ping",[23] which direct traffic to individual blogs, drive the popularity of blogs up as they highlight the "best of" the blogosphere. The actual number of blogs authored by Singaporeans is difficult to pin down, given that most blog hosting sites are based overseas. Many blog sites do not release information pertaining to the geographical origin of their users.

3.12   However, going by a few indicators, the number of Singaporeans blogging is substantial. In one blogging community, Live Journal, Singapore is listed as the sixth largest community with about 109,000 accounts.[24] The Info-communications Development Authority (IDA)'s 2007 survey of Singaporeans on the usage of Internet here showed that the younger generation was the most active consumers of blogs. Just 7 per cent of all respondents aged 15 and above read as well as create blogs.[25] But 16 per cent of those aged 15 to 24 said they have their own blogs and

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15   Wuld, D., C. (2007). The blogging revolution: Government in the age of Web 2.0. IBM Center for the Business of Government.

16   Bloggers Roundtable. Retrieved Mar 18, 2008, from http://www.defenselink.mil/Blogger/Index.aspx

17   Dipnote, U.S. Department of State blog. Retrieved Mar 18, 2008, http://blogs.state.gov/index.php/

18   Mr Brown. Retrieved Jan 11, 2008, from http://www.mrbrown.com

19   Xiaxue. Retrieved Jan 11, 2008, from http://www.xiaxue.blogspot.com

20   Mr Miyagi. Retrieved Jan 11, 2008, from http://miyagi.sg

21   Yawning Bread. Retrieved Jan 11, 2008, from http://www.yawningbread.org

22   Tomorrow.sg. Retrieved Jan 11, 2008, from http://www.tomorrow.sg

23   Ping.sg. Retrieved May 16, 2008, from http://www.ping.sg

24   Live Journal's community statistics. Retrieved Nov 12, 2008, from http://www.livejournal.com/stats.bml

25   Infocomm Development Authority (IDA), Singapore. (2008). Annual survey on infocomm usage in households and by individuals for 2007. Retrieved from http://www.ida.gov.sg/doc/Publications/Publications_Level2/20061205092557/ASInfocommUsageHseholds07.pdf

read those created by others.

3.13   Politicians and Government leaders here have also got onto the "blogwagon". The most prominent is perhaps Foreign Minister George Yeo, who muses about life as an MP in Singapore as well as his work as a foreign minister.[26] Similarly, the post-independence generation of PAP MPs (the P65 group) blog about their work as MPs and post their Parliament speeches online. Nominated Member of Parliament Siew Kum Hong blogs as well.

3.14   Likewise, some opposition party members are also active online. The Singapore Democratic Party is probably the most advanced political party to use new media, employing videos, podcasts and a blog-style format for their website.[27]

3.15   Individuals are no longer restricted to simple consumption of content as in the era of mass broadcasting. New media has given them access to the tools of production as well. Technology enables these consumers to become "pro-sumers" – they consume as well as produce content. They can reach other like-minded individuals through the Internet. New media researcher Tan Tarn How, from the Institute of Policy Studies, calls this the "You are not alone" syndrome. These individuals, coming together as a group, have become more demanding, creating both challenges and opportunities for society.

Mass Democratisation of Information

3.16   A second important trend is mass democratisation of information and content. People are no longer limited to content from traditional media like television, print media or radio. New media technology enables people to search and find new sources of information, news and views beyond Singapore's shores.

3.17   Where once the state could act as the gatekeeper and regulate the flow of information through laws regulating mainstream mass media, this is no longer possible. A diversity of lifestyles, views and cultures are being streamed directly into desktops, PDAs, mobile phones, and laptops with little interference from the state. However, even if it is extremely difficult to control and regulate all forms of information online, the importance of symbolism should not be completely discounted. Members of the public have written to AIMS to argue that laws also play a role in influencing behaviour, even if they are not fully enforceable. For that alone, they believe that laws which demarcate what is acceptable or not should still be retained.

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26   Foreign Minister George Yeo guest blogs at http://www.beyondsg.typepad.com and http://www.ephraim.blogspot.com

27   Singapore Democratic Party Website. Retrieved Jan 11, 2008, from http://www.yoursdp.org/

3.18   In less tangible ways, mass democratisation of content also means that people are exposed to new ways of thinking, new methods of speaking and new modes of interacting. With the Internet at their fingertips, individuals can challenge the state's interpretation of events by tapping alternative sources of information. This is already happening in Singapore. Bloggers often challenge what ministers and MPs say by offering their own take on current events, as seen in the Mas Selamat Kastari escape and the debate over whether section 377A of the Penal Code, which criminalises male homosexual acts, should be repealed. It will be increasingly difficult for the state to maintain any "gatekeeper" role in respect of information. Those using new media can effectively challenge the state's narrative and thousands, if not millions, will have access to their views.

New Media as Public Forum

3.19   A third trend is the people's use of interactive media to discuss and act upon issues of public interest in a manner not previously possible. Groups of citizens are coming together to discuss, comment and reflect upon the issues of the day, whether it is as simple as broken road lights or as important as national policies. There are active conversations being conducted online.

3.20   At the same time, the Internet is becoming the choice platform for people who seek alternative news and views. Studies both here and overseas show that while people still rely largely on traditional media for news and information, they head online to seek diverse opinions.[28] The perceived credibility of online sources is growing. A survey conducted by MSN Asia-Pacific showed that out of 1,000 respondents, 51 per cent trust blog content as much as they trust the content in traditional media. Some 28 per cent found blogs to be the quickest way to learn what is happening in the world.[29]

3.21   In Singapore, there are many forums that citizens use to talk to each other. Besides popular individual blogs, there is also The Online Citizen.[30] It gets 10,000 hits a day and is the top socio-political site in Singapore.[31]

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28 An AIMS-commissioned new media consumption study found that Singaporeans are using new media for a wider range of purposes than traditional media and prefer searching for information online rather than through traditional media. The study also suggests that the younger and more educated the user, the more likely they are to be reliant on new media for information, news and entertainment.
    Findings from AIMS study on "Singaporeans and the New Media", Annex C.

29 Paulo, D., A. (2006, November 30). Netizens place great trust in blogs: Online survey. Channel News Asia. Retrieved from http://www.channelnewsasia.com/stories/singaporelocalnews/view/ 244382/1/.html

30 The Online Citizen. Retrieved Jan 11, 2008, from http://www.theonlinecitizen.com/

31 Au Yong, J. (2008, October 3). Won't play hide & speak. The Straits Times.

Other sites also include online forums such as HardwareZone[32], xin.sg and Stomp.[33]

3.22   More importantly, the new media is empowering citizens to act on what they say. One good example took place in Canada in December 2007. Canadian law professor Michael Geist founded a Facebook group, Fair Copyright for Canada, to educate Canadians on a planned move by the Canadian government to reform copyright law. He sent out a few hundred invitations to friends on his Facebook network, hoping to generate some interest in the subject.[34] He did not expect an overwhelming response. He wrote:

> "Within hours the group started to grow, first 50 members, then 100, and then 1000. One week later there were 10,000 members. Two weeks later there were over 25,000 members with a new member joining the group every 30 seconds. The big numbers tell only part of the story. The group is home to over 500 wall posts, links to 150 articles of interest, over 50 discussion threads, dozens of photos and nine videos… While Facebook was not the only source of action, the momentum was unquestionably built on thousands of Canadians, who were determined to have their voices heard."

3.23   At last count, there were over 60,000 subscribers to the Facebook group. More significantly, this movement spurred offline action. A group of 50 people knocked on the doors of a Canadian minister to tell him what they thought of the planned reform. Ten days after the group was formed and after a flurry of activity, the Canadian minister delayed the introduction of the reform bill.

3.24   Online citizens are not only using the platform to gather information and discuss politics but also to mobilise and organise themselves on public issues. During the recent Sichuan earthquake, the Internet was a key platform for disseminating information, focusing the public on critical issues, directing rescue work, mobilising resources, gathering donations and influencing public opinion. Donations also poured in through the Internet from the world over.

3.25   The recent Malaysian election in March 2008 showcased the influence of the new media in a country where the Internet penetration is significantly

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32   Hardware Zone Forums. Retrieved Sept 11, 2008, from http://forums.hardwarezone.com.sg/

33   Stomp Talkback. Retrieved Sept 11, 2008, from http://www.stomp.com.sg

34   Geist, M. (2007, December 18). Power of Facebook affects law. BBC News. Retrieved from http://news.bbc.co.uk/2/hi/technology/7149588.stm

lower than in Singapore. The ruling Barisan Nasional (BN) coalition lost its two-thirds majority in Parliament as well as control of 5 of the 12 states. After the election, Malaysian Prime Minister Abdullah Badawi admitted that one reason for the result was due to BN losing the online battle. BN, he said, had not paid enough attention to what was going on in the blogosphere. Several bloggers campaigned online for election and were elected. The influence of the new media went beyond the Net savvy as content was reproduced in traditional media, video CDs and mobile phone messaging. Analysts attribute the results to widespread discontent. Nonetheless, the catalytic role played by new media cannot be denied.[35]

Why Engage Online?

3.26   One question that can be legitimately asked is: Why engage online? There are already a range of channels that citizens can use to reach policy makers and other key decision makers. Elected MPs hold weekly meet-the-people sessions. They regularly visit their constituents. MPs forward these concerns to the ministers in informal and formal ways, for example in Parliament. E-mail addresses of all the MPs are also available on Parliament's website.[36]

3.27   In addition, Government agencies are accessible. Most Government agency websites provide e-mail addresses. Government has also instituted a "No Wrong Door Policy," whereby enquiries addressed to the "wrong" agency are internally diverted to the appropriate agency for action. Email addresses of most civil servants are provided online.[37]

3.28   The Government is present online as well. E-services allow people to transact business with the Government without hassle, whether it is to apply for a licence or pay a bill.

3.29   The Government also has a dedicated agency called REACH (Reaching Everyone for Active Citizenry @ Home) that deals specifically with gathering input and feedback from the public. It has three main roles: gathering and gauging ground sentiments; reaching out and engaging citizens; promoting active citizenry through citizen participation and involvement.[38] It regularly conducts feedback, dialogue and tea sessions with ordinary Singaporeans to find out what they think of the Government and its policies.

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35   Au Yong, J. (2008, April 12). The Next Frontier. The Straits Times.

36   Singapore Parliament. Retrieved Oct 17, 2007, from http://www.parliament.gov.sg

37   Singapore Government Directory. Retrieved Jan 19, 2008, from http://www.sgdi.gov.sg

38   REACH's roles. Retrieved Feb 20, 2008, from http://app.reach.gov.sg/reach/AboutUs/REACHsRoles/tabid/61/Default.aspx

3.30   In addition, e-consultation is practised regularly by many government agencies. For instance, the Monetary Authority of Singapore issues consultation papers for industry players and the public on proposed legislation. So does the Ministry of Finance on proposed changes to tax legislation.[39] So too does the Media Development Authority. Consultation papers issued by virtually all government agencies can be found centrally in REACH.

3.31   The Government has also moved to utilise the Web and to obtain feedback on certain policy issues of national concern. The Inter-Ministerial Committee on Sustainable Development recently launched a website to gather feedback from Netizens on how Singapore can develop its economy in a sustainable way.[40] It invites citizens to give feedback on sustainable living.

3.32   Several government agencies have adopted various forms of social media to tap on the Web 2.0 wave of activism. The National Heritage Board has a blog about Singapore society and history at yesterday.sg; youths have a dedicated space to express themselves online at the Ministry of Community Development, Youth and Sports' (MCYS) youth.sg website. There are more plans to roll out such interactive media under the government-wide Integrated Government 2010 plan. The iGov2010 plan, among other things, seeks to increase citizens' "mind share" in government.[41]

3.33   Through these initiatives, it is clear that the online platform is recognised as playing an important part in this consultation process. However, in light of an evolving new media, is this enough?

Embarking on E-Engagement

3.34   Our research shows that there are varying definitions of what e-engagement is. Some overseas government agencies say it is consultation done over the e-platform. Others believe that the act of setting up a website or text messaging one's views on a policy change to the government is classified as e-engagement. We believe that e-engagement is much more than that.

3.35   AIMS defines e-engagement as a sustained form of interaction between the Government and citizens on issues of public policy. A simple way of thinking about it is to imagine a conversation taking place between two people where there is a constant flow of information and views

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39   Ministry of Finance, Consultation Papers. Retrieved May 10, 2008, from http://www.mof.gov.sg/consultation_archives/index.html

40   Inter-Ministerial Committee on Sustainable Development (2008, July 26). Retrieved July 31, 2008, from http://app.mewr.gov.sg/web/Contents/ContentsSSS.aspx?ContId=1034

41   Integrated Government 2010. Retrieved Mar 29, 2008, from, http://www.igov.gov.sg

being exchanged. This conversation may grow to include more than just two people. All views are brought to the table to be listened to and discussed. Translated to policy making, this means citizens participating in this conversation will not only be talking to the Government but to one another and the Government as well.

3.36   This is different from current modes of consultation. Currently, consultation is largely at the Government's initiative. It decides on what it wants discussed, and typically invites responses to a consultation paper. Citizens who respond do so directly to the Government. In contrast, engagement envisages a more "bottom-up" process where there is a plurality of conversations – many initiated by interested citizens – and involving a large number of participants. AIMS' own public engagement exercise is illustrative, with many citizens offering thought-provoking comments, not just through email, but also by writing on blogs.

3.37   It is this form of engagement that AIMS recommends the Government take up. The challenges of governance in the future, in a complex new media environment, calls for greater interaction with citizens on the online platform. This does not mean, however, that offline citizen feedback and consultation practices do not matter. They are still important but what is also needed is a deeper engagement process. Public feedback has helped us fine tune our final report, reaffirming our belief that e-engagement will be truly beneficial for Singapore in the long run.

3.38   To provide a clearer idea of how engagement is different from consultation, a review of citizen e-participation literature may be helpful.

E-Participation

3.39   Research shows that a country's e-participation level exists along a continuum. The Organisation for Economic Cooperation and Development (OECD) has suggested a three-stage model.[42]

3.40   The "information" stage is the first stage. It involves a top-down flow of information through a one-way communication channel. However, the resultant effect does not translate to more participation from the citizens. Rather, the "information" stage simply shifts the model of communicating via traditional media onto the online space. Informational government websites and e-government services, which allow citizens to file taxes and apply for various facilities online, are examples of such "information" practices. This first step, though limiting, is an improvement from a completely offline government.

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42   Bristol City Council. (2005). e-Methods for public engagement. Retrieved from http://146.176.2.70/ITC/Documents/eMethods_guide2005.pdf

3.41   The second stage involves "consultation", where there is two-way communication between the government and the people. At this stage, governments provide the people with information on selected pre-defined issues and then invite their citizens to comment on them.

3.42   The final stage is "active participation". Citizens are actively involved in decision making and though the government retains the final decision making power, the processes are more transparent, eliciting the trust of its citizens. Such a form of engagement can be thought of as a conversation or a dialogue involving two or more parties who are willing to listen to each other. Canada[43] and South Korea[44] are examples of countries which have agencies actively nurturing this form of engagement. However, this type of engagement is still in the experimental stage.

Barriers to E-Engagement

3.43   E-engagement is still not widespread. There are structural, cultural and institutional barriers. For one, unenlightened policy makers, well entrenched in the traditional processes of decision-making may be loathe to relinquish some of their authority and share the power to frame issues with the public. Experts may doubt the ability of citizens to grapple with complex issues and provide useful inputs. On the other hand, there is public scepticism of the willingness of policy makers to take them seriously. A wall of distrust online was evident during our public consultation.

3.44   Moreover, given the nature of the Internet, the government's ambivalent attitude towards it is understandable. First, there is the problem of anonymity. There is no accounting for the people behind anonymous comments. Do they have an axe to grind? Are they citizens or permanent residents, or foreigners? Furthermore, the Internet allows for virulent, cynical and critical comments that may be anonymous, unsubstantiated or based on hearsay. This we experienced in our own engagement with the public. Many wrote in anonymously to our website using invalid email addresses. Others obviously did not read our paper and raised issues based on second or third hand information.

3.45   The "long-tail" nature of the Internet also means that it is difficult to decide where and with whom to engage. The long-tail theory states that while a few products are immensely popular, many niche products survive online because there is a small group of people who are actively seeking such products. While a few blogs and news sites command

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43   In particular, New Brunswick has recently completed their report on a year long Public Engagement Initiative. AIMS met with project leader Don Lenihan.
Lenihan, D. (2008). It's more than Talk: Listen, Learn and Act. A New Model for Public Engagement. New Brunswick, Canada: Province of New Brunswick.

44   A commonly cited e-engagement website is South Korea's e-people site. Retrieved Feb 8, 2008, from http://www.epeople.go.kr

thousands of eyeballs, thousands of other eyeballs are scattered among hundreds of websites. Media fragmentation is taking place, thus making it challenging for governments to communicate effectively with the masses in the same way as is possible with traditional media.

3.46   One other disincentive is the still overwhelming reach of traditional media. Communicating with the citizens through the traditional media gives government better returns. It should be noted, however, that the viral nature of the Internet can sometimes spark off an intense discussion and generate a lot of interest in a short period of time.

3.47   Many of these issues are faced by governments around the world. It is not surprising that governments are uneasy about engaging online. With the traditional media, governments have greater control and can frame the agenda. The online platform was designed to be open, unpredictable, borderless and anonymous.[45] This is very different from what governments are used to.

Reasons for E-Engagement

3.48   Despite these reservations, there are several reasons why the Government should push ahead with e-engagement.

3.49   Focus group discussions with Singaporeans about their new media consumption habits show that there is a low level of awareness of the Government's online initiatives. Many of those interviewed said they were not aware of the Government's REACH web portal. In fact, many of them were introduced to it during the group discussions. Nonetheless, they still expressed scepticism about the platform even after being made aware of it. One interviewee commented, "Most of the time, they just take the feedback and do nothing about it, nobody knows the result of the feedback on a policy." There seemed to be a belief among respondents that the feedback they give goes into a black hole.

3.50   Discussions with Government agencies also reveal that people are still more reliant on traditional means of feedback. Compared to phone calls and over-the-counter feedback sessions, e-mails and online feedback forms constituted a small minority of replies. A reason cited by a quality service manager, who deals with both online and offline feedback in a government agency, is that "there was a person who would speak to you about your queries. People prefer hearing a human voice instead of an automated response or a faceless e-mail response."

3.51   Engaging citizens using the online space can, over time, help overcome this problem. As indicated, e-engagement is a sustained conversation

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45   Zittrain, J. (2008). The future of the Internet: And how to stop it. p.28-31. London: Yale University Press.

between government and citizens. Unlike feedback or consultation, information and views flow back and forth in e-engagement, like a real human conversation. For engagement to be sustained there should be a medium which allows for constant interaction between parties.

3.52   Furthermore, to not engage online is to risk alienating groups of individuals who have grown up around the Internet, computers and digital devices. To many of these digital natives, using the Internet to communicate is second nature to them. In our focus group discussions, it was not uncommon to encounter individuals, both young and old, spending 40 or more hours a week on the Internet. A secondary school student said that he was on the Internet for such periods of time because "it is comforting being connected." Another white-collar adult worker revealed that he was hooked to the Net and felt uneasy when he was not connected, even while on holiday. Currently, the Government takes a cautious approach to engaging voices online. A simple example of this is the Government's different responses to letters to newspapers online and offline. It will reply to letters in print, but not online. If this continues, there is a risk of being disconnected from this generation of digital citizens, many of whom produce and consume news and views online.

3.53   Nonetheless, we should not just focus entirely on e-engagement as there are still large segments of the population that are not plugged into the Web.

3.54   In Singapore, political discussion on the Internet is driven by educated, Net-savvy individuals who use blogs, forums and other new media tools to voice their opinions on a variety of issues. They are a minority of the population. The majority tend to shy away from discussion of politics for diverse reasons, including lack of knowledge and a fear of repercussions, as revealed by our focus group discussions conducted before the release of AIMS' consultation paper.[46]

3.55   Bloggers interviewed for the study said that there were several reasons why they decided to blog about politics.

(a)   They felt that there was a lack of alternative voices in the mainstream media.

(b)   They do not feel the need to self-censor and are more candid in their opinions.

(c)   There is also community to be found in blogging. Through tag-boards, comments and links, they feel as if they belong to a wider community who are reading and feeding off each other's opinions.

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46   Findings from AIMS study on "Singaporeans and the New Media", Annex C.

(d)   They want to act as a check on the Government.

3.56   However, these political bloggers acknowledge that their blogs are probably not read by the mainstream and that they only attract people who are like them – educated and Net-savvy. Said one political blogger, "From (readers') comments, we get a feel of who our readers are, and they are still largely limited to those who are middle class and above." Another said, "An uncle at the coffee shop will have a very different opinion as someone reading our articles". They are aware that their blogs may not be reaching out beyond their small but educated group to the wider public. Nevertheless, bloggers feel that the Internet is a good place to express opinions, especially critical ones.

3.57   On the other hand, many people are not interested in discussing politics online. The reasons they gave are varied. The most commonly cited one was that politics is "sensitive." A few expressed hesitation to publish their thoughts online because there was a fear that the Government might frown upon them. Said one civil servant, "Your bonus is directly affected by what you say about the Government". An executive, married with children, said, "I'm falling into the trap where I really don't speak up for myself anymore, because I'm a bit too comfortable. We don't have anything to gain, we have everything to lose." Other reasons for their reluctance include lack of knowledge, lack of interest and a belief that their views do not matter.

3.58   Some of those who do not blog, or do not blog about political issues have formed the opinion that the Internet does not guarantee freedom of expression. One respondent believed that bloggers can always be traced through the IP address of the computer that they use. Many said they preferred to talk about politics in personal and private settings, such as in coffee shops, around the dinner table, and among friends and family.

3.59   Another finding was that in general, people tend to head online for views and commentary, relying somewhat on foreign sources. They still paid much attention to news reports in the traditional media, and considered them accurate and credible.

3.60   Three observations can be made. First, there is a group of citizens, small in number though they may be, who are active and vocal on the blogs. They see themselves as being the alternative voice and are not afraid to be critical of the Government. They think they are being read by the Government but instead of being fearful, they relish the chance of being heard by policy makers. While they want to be heard, they do not want to be watched. This corresponds to what we are seeing in other countries, where there is a rising number of citizens becoming more demanding and vocal in their opinions. At the same time, the people who read them are, likewise, educated and Net-savvy. While most people still read the

newspapers and watch television now, there can be no doubt that more of such Net-savvy individuals will head online for news and views in the future.

3.61   Second, online political debate is currently dominated by people who see themselves as the alternative, or, some may say, the more critical voices. While there is nothing wrong with being critical, some of these criticisms may not represent the views held by a majority or perhaps even a significant portion of the population. The silent majority, by being absent from the conversation, deprive the vocal minority from hearing their views. For an informed, balanced discussion on issues affecting citizens, it is necessary that there be a true plurality of voices. The silent majority should be encouraged to actively participate in online political debates.

3.62   Third, there seems to be public scepticism of the value of their contribution.

3.63   We should briefly review the benefits of using the online platform. On a pragmatic level, this includes:

(a)   **Being able to reach a wider audience**

Traditional forms of consultation and citizen engagement such as dialogues and feedback sessions can only be conducted at a specified time and place. With the online platform, engagement can be carried out 24 hours a day, 7 days a week. The online platform also means that no one needs to be physically present to give his view to the Minister or MP. Overseas citizens and other overseas stakeholders, such as overseas investors can also participate through the new media.

(b)   **Leveraging on Singapore's strong e-government presence**

The move to e-engagement is less onerous as the Government already has expertise in IT and Web development software. The physical and IT infrastructure are in place.

3.64   More importantly, engaging citizens online can establish a closer bond between citizens and the government. Professor Stephen Coleman, University of Leeds Professor of Political Communication and Director of Research (Institute of Communication Studies) and an expert in the area of e-engagement believes that the new media can put the "representative" back into "representative democracy".[47] In both new and established representative democracies overseas, citizens are becoming more disillusioned with the political process as many feel

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47   Coleman, S. (2005). *Direct representation: towards a conversational democracy.* p.10. London: Institute of Public Policy Research.

increasingly disconnected from their elected representatives. This has been seen in countries such as the UK and the US.

3.65   New media and ICT (information and communication technology) tools can bridge this gap between MPs and their constituents. Prof Coleman believes that new media can facilitate a "close, conversational relationship" between government and citizens. This goes beyond being able to communicate directly with leaders through e-mail or watching webcasts of town hall meetings. The rise of interactive tools has created a class of citizens who are not satisfied with being spectators but eager to be participants. Politicians need to acknowledge this, or "the danger will be the emergence of a subterranean sphere of discourse from which they are excluded," writes Prof Coleman.[48] He further states that, "Public communication could migrate, leaving the 'leaders' behind".[49]

3.66   Therefore, AIMS recommends that the Government carefully studies how best to utilise this platform to engage its citizens so that it does not risk losing the benefits of new media technology. It should do so expeditiously. It should look at the experiences of other jurisdictions, limited though they may be. Canada's New Brunswick Initiative in Public Engagement is one such example AIMS has found useful to study. Another is the Hansard Society in Britain, a non-profit organisation which has just completed its Digital Dialogues project with various British agencies on how to utilise the new media to increase citizen engagement.[50]

3.67   Not to engage, says Professor Coleman, carries some risk.

> "The alternative to engaging the public will not be an unengaged public, but a public with its own agenda and an understandable hostility to decision-making processes which appear to ignore them." – Professor Stephen Coleman[51]

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48   Coleman, S. (2005). Direct representation: towards a conversational democracy. p.15. London: Institute of Public Policy Research.

49   ibid.

50   Digital Dialogues, Hansard Society. Retrieved Sept 19, 2008, from http://www.digitaldialogues.org.uk

51   Coleman, S., & Goetz, J. (2001). Bowling Together: Online Public Engagement in Policy Deliberation. p.12. London: Hansard Society.

Risk Assessment

3.68   To further understand the risks and pitfalls associated with e-engagement or the lack thereof, AIMS did a risk assessment of the following scenarios: (a) no e-engagement and (b) e-engaging online. While not exhaustive or complete, the risks are present nonetheless.

No e-engagement	Risks
• Status quo remains. • Continue to favour traditional media over the new media. • No real dialogue between state and digital citizen. • Citizens have limited power to initiate conversations with the Government. • Online citizen-to-citizen dialogue continues without input from the state.	• An alienated public which continues to engage in their own conversation. » This may lead to a public "with its own agenda and an understandable hostility to decision making processes that seem to ignore them".[52] » Breakdown of trust between citizens and Government. • An increasingly demanding, vocal public that wants debate and to be part of decision making process. » Debates between groups in society not moderated– no facilitator to do so. » Splintering of society. • Fragmentation of media which may lead to increasing difficulty in getting public service messages out. » There is a risk that if the Government does not engage voices online, it will not be able to connect with a generation of young people bred on new media information, news and views.

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52   Coleman, S., & Goetz, J. (2001). Bowling Together: Online Public Engagement in Policy Deliberation. p.12. London: Hansard Society.

Engage online	Risks
• Develop e-engagement strategy. • Engage digital citizens by bringing them into the decision-making process. • Move away from a one-way communication model towards a two-way model where there is dynamic dialogue. • Acknowledge that citizens can play a part in reaching a consensus and in making social decisions. • Allow for constant interaction instead of ad-hoc, episodic engagement. • Implement good suggestions and acknowledge citizens for their efforts.	• Problem of anonymity » Anonymity may result in irresponsible comments and behaviour on the part of the commentators. » Tyranny of the minority: A minority of users may hijack the Net conversation for their own agenda. It is difficult to tell and measure public opinion when actual identities are not revealed and actual numbers of people are not verified. • Raising public expectations: » Citizens may grow to expect a response to every view or comment expressed online. As it is logistically impossible to do so, it might lead to a disillusioned public who may not accept or understand why their views were not responded to or taken on-board. • Viral nature of the Internet » Inflammatory or defamatory comments posted online in the course of engagement with the Government can spread very quickly and cause irreparable damage. • Financial costs » There is financial outlay required in both the physical infrastructure and the development of manpower resources and new media savvy communications skills.

Public Feedback

3.69   Our recommendation that e-engagement be promoted was widely discussed. The public's feedback, both online and offline, came from broadly three groups: those who were enthusiastic, those who were supportive but with some reservations, and those who were opposed to it.

3.70   The vast majority of respondents were in favour of e-engagement.

3.71   E-engagement was seen as timely and important as Singapore marches into the digital future. In the words of one respondent: "I'd probably say the recommendations (especially on engagement) are a great starting point, and long overdue."

3.72   The many risks of e-engagement were noted, but there was also recognition that the new media offered great opportunities for new forms of governance. One respondent looked "forward to seeing how the Government would be making positive use of the new media in its engagement with the people".

3.73   Institute of Policy Studies researchers Arun Mahizhnan and Tan Tarn How called e-engagement "a leap of faith". They noted that the new media has redefined modes of communication and governance. They wrote of the new media, "There is no government here, no gatekeepers, certainly none who would be accepted as the final arbiter on what is good for Singapore. We have to learn with this reality, not deny its existence. Thus, the question to ask is not whether the Government should engage the online world. There is no question it should. The Government has no choice. The real question is how - how to, how not to, how much, etc." The mainstream print media also supported the e-engagement recommendation.

3.74   However, while acknowledging the value of e-engagement, others pinpointed pitfalls that needed to be navigated and raised certain concerns as follows:

What about the non-digital natives?

3.75   While e-engagement will cater to the younger digital natives, those who are not plugged in should not be forgotten. Wrote one respondent, "... there is concern that this e-engagement drive will still alienate a substantial portion of the community."

Engagement needs to change offline before thinking about online processes

3.76   Bloggers Choo Zheng Xi, from The Online Citizen and Ng E-Jay, from Sg Politics, felt that while e-engagement is a recommendation with

good intent, there needs to be greater scrutiny of offline engagement processes before even embarking online.

3.77 Choo said that many felt that the government was not even listening offline, so how could they expect the government to listen online?[53] Likewise Ng wrote in his blog: "I have no doubt that e-engagement would be a useful tool for the Government to reach out and solicit feedback from citizens, but first the foundations of good governance must be in place."[54]

Government cannot simply rely on existing platforms

3.78 Even as the Government embarks on e-engagement, it should be mindful of the culture that has developed around Web 2.0. With the advent of social networking, blogging and the proliferation of thousands of communities, it is no longer enough to set up on a virtual piece of real estate and hope people gravitate towards you.

3.79 Netizens wrote to us to say they would like to see the Government interact with them outside of established forums such as REACH. It should also be noted, however, that our experience during the consultation period shows that the use of established platforms was more effective than building a web presence from scratch.

Separating the "wheat from the chaff"

3.80 There was a great deal of unhelpful commentary and discussions online, but there were also reasoned and critical discussions. Bloggers such as Gerald Giam agreed that there is a need to be selective about who to engage with. Not all bloggers welcomed the Government's voice on their private blogs, while others simply attack the Government for the sake of venting their frustrations. Yet, there were also serious bloggers and forum posters who genuinely wanted to be heard.

3.81 A Straits Times letter writer urged the Government to engage online, but to do so with caution. Noting that there are "half-truths" circulating rampantly online, he wrote:

> "It (the Government) should be fully aware that new media creates a landscape for people to give feedback and challenge ideas constantly, and it must be prepared to face the full effects of the onslaught. Ultimately, transparency and accountability of the Government should form the

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53 Choo Zheng Xi made this point at a press conference hosted by the 13 bloggers to release their views on AIMS consultation paper.

54 Ng, E. (2008, September 3). AIMS's paper on Engaging New Media — the topic of Government e-engagement. Retrieved Sept 4, 2008, from http://www.sgpolitics.net/?p=576

key fundamentals of its strategy when taking on new media by the horns."[55]

3.82   While there was broad support for e-engagement, there were also detractors. Some objected to the very idea of having government come online to interact with them. They viewed this as an intrusion into their private space.

3.83   Others were simply hostile to the government's presence. They were also hostile towards AIMS. Such conduct is part of the risk of engaging online, but should, however, not be condoned or encouraged if we want positive results from e-engagement.

3.84   Overall, we were gratified by the public's strong support for e-engagement. Their arguments, in many ways, strengthen the belief that both the Government and citizens stand to benefit from engaging online.

3.85   In particular, we are heartened by the e-engagement proposals submitted by a group of nine bloggers, academics and public relations professionals. Their ideas are worthy of official consideration.[56]

3.86   They are an example of the concerned citizens whose expertise the Government should tap. Engaging them will send positive signals to others that they can all contribute meaningfully to public policy through e-engagement.

Recommendations Following Public Feedback

3.87   The goal should be for the Government to do e-engagement well. The feedback from the public shows that there are many well-meaning citizens who wish to be more involved in the policy-making process. Based on feedback received as well as research done prior to the consultation period, we recommend the following principles of e-engagement:

   » **An evolutionary, rather than a revolutionary approach should be taken**

3.88   E-engagement will take some time to develop. Both the Government and citizens will have to adapt to the new form of communication and interaction. The Government must be prepared to accept that there will be some resistance to e-engagement efforts and that there will be setbacks. Government should continue adopting its successful strategy of an early start ahead of other countries and learn valuable lessons in

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55   Chan, C., K. (2008, September 15). Engage media with care. The Straits Times.

56   Our Responses to the AIMS Consultation Paper. Sept 16, 2008, Annex D.

the process.

> **Regular and open channels should exist for netizens and Government to interact**

3.89   E-engagement should complement traditional forms of engaging and interacting with the public. As outlined earlier, these traditional forms of consultation are just as necessary. This will ease worries raised by the public about alienating those who are not digital natives.

> **Community is important**

3.90   The Government is not the only stakeholder in this initiative. The community at large, especially the online community, has a vital role to play if this is to be a success. Using the online platform to responsibly engage with the Government will help mitigate some of the risks outlined above. Participating fully in the discussions in a fruitful manner as well as being open and receptive to deliberations will be essential if trust is to be built on both sides.

> **Engage a range of stakeholders on a range of issues**

3.91   Engagement should not just cater to politics and policies, but also to service delivery and quality maintenance.[57] For instance, the National Environment Agency does good work addressing public health concerns raised on online forums such as Stomp. They act on those concerns and post on the complaint thread the action it has taken. They are a good example for all Government agencies to follow.

> **Engagement is not about finding agreement on all issues**

3.92   The public should also accept that e-engagement does not mean acceding to all requests. Some ideas and opinions will be rejected for a variety of reasons, just like in any conversation. The perception that engagement is about giving in is a mistaken one. Not all ideas are sound, or can be implemented. Where disagreements occur, we should agree to disagree. However, where there are good ideas, they should be accepted and recognised.

Conclusion

3.93   Going forward, there are several concrete steps that can be taken to establish e-engagement.

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57   Ramblinglibrarian, forum post on AIMS forum. Is E-engagement equated with "Political/ policy engagement" only? Retrieved September 18, 2008, from http://forum.aims.org.sg/yaf_postst15_Is-Eengagement-equated-with-Political-policy-engagement-only.aspx

Evaluate the capacity of the Government to communicate effectively online

3.94   A key step forward must certainly be to evaluate the capacity of the Government to communicate effectively online. Being able to write press statements and speeches is one thing but to be able to moderate, facilitate and respond to online discussions, including hostile or defamatory interventions is a different skill altogether. Investment in training government personnel to engage online will be necessary. Specialist manpower resources may have to be dedicated to e-engagement. The Singapore Academy of Law noted that, "to facilitate the discharge of Government function within the universe of new media, the Government must not view it as a foreign language that requires translators. Instead, it must bring such new media into its own realm, including by ensuring that its officers themselves belong to that universe of new media."

Rethink some of its current citizen engagement processes

3.95   The second important area to consider is whether the Government is prepared to rethink some of its processes. For instance, one oft-cited criticism of the current system is that people seem to think that feedback or ideas submitted to the Government goes into a "black hole". Can the process be made more transparent so that participants and contributors are encouraged to provide feedback? How can the Government implement and be seen to be implementing ideas derived from citizen feedback? This should apply to both online and offline modes of engagement. Again, this might mean further commitment of resources. The Government should properly examine what it means to listen and adjust its processes with this desired outcome in mind.

Engage voices outside of current Government platforms

3.96   Thirdly, it should consider engaging voices outside of current Government platforms. For instance, might it also be useful to join in the conversation already taking place online, instead of hoping that the conversations will gravitate to platforms like REACH? Although there is a sizeable audience at the REACH platforms, more can be achieved if the Government moves beyond them.

3.97   It is neither necessary nor practical to respond to all blogs or forum posts. The key is to engage selectively. Sometimes, a comment left on a blog that raises pertinent points might well be a useful signal that the Government is listening and wants to be part of the conversation.

Set up a panel of young digital natives to serve as a consultative body

3.98   AIMS recommends the setting up of a youth panel to serve as a

consultative body for the Government. As new media is constantly evolving, it would be difficult to keep abreast of the latest trends and fads. This group can act as feelers for the latest trends and issues in new media, and cyber safety matters. To this end, the digital native is better placed to give updates and advice on the latest computing or online trends, social networking sites, threats to youth and even viral videos. It might be useful for such a group to help policy makers identify key trends that a "not-so-digital" policy maker might miss out on. As Professor John Seely Brown said in a lecture in Singapore, "We aren't in it."[58]

Giving more space for civil servants to voice opinions

3.99   The current rules in the Instruction Manual on public communications state that civil servants are not allowed to comment on government policy. One group of bloggers wrote to AIMS saying that there is a need to refine such a rule.

> "Government employees may wish to voice their personal views on public policies, but are occasionally restrained by the current "Instruction Manual" on public communications. These invaluable personal perspectives would sometimes be more pragmatic than official corporate sentiments; even views contrary to the positions of government." – Group of academics and government employees

3.100   AIMS concurs with such an assessment. Singapore has a large group of very talented, well educated and well informed citizens in the civil service. As they are working within the Government, they can understand better the constraints and thinking of the Government. They are in a unique position to articulate balanced views and a unique perspective first-hand. The Government should therefore consider reviewing the current guidelines so as to encourage participation by civil servants to engage the new media in their personal capacities.

3.101   The challenges of governing in a digital age are unavoidable. There are risks, but also benefits. The chances of success are better with a supportive community. Finally, the outcome Singapore should aim for is a culture where participating in respectful, well-organised deliberation processes is a rewarding experience. People should be made more informed and to feel able to make a contribution. Indeed, for some, this might well be transformative.

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58   Brown, J., S. Redefining Media in the 21st Century, a lecture delivered on September 23, 2008.

Chapter 2 **// Online Political Content /**

/ Background / Review of Light-touch Policy / Online Election Advertising in Other Countries / Proposed Recommendations in the Consultation Paper / Public Feedback / Recommendations Following Public Feedback / Conclusion /

ONLINE POLITICAL CONTENT

4.1 New media technology has radically changed the way political contests are fought the world over. In the case of the March 2008 General Election in Malaysia, the result was quite remarkable. In the case of the U.S. Presidential Election that took place in November 2008, the importance of new media is already apparent. Clearly, the new media offers opportunities for the dissemination of political content and views which is readily embraced by digital natives. It is therefore timely to review existing regulations governing the online dissemination of political content. Current regulations have been criticised as being too broad and vague and to a certain extent, have discouraged expression of views and opinions on the Internet. While such regulations might have been effective in curbing the excesses of irresponsible speech, they may have also unduly limited the use of what can be a valuable, and probably indispensable, channel of communication.

4.2 Rapid developments in technology have also rendered some regulations either irrelevant or extremely difficult to enforce. With the developments in Singapore's socio-political landscape and the Internet, as well as citizens' increasing aspirations for greater political expression, it is timely to review and update our regulations to ensure that they remain relevant in today's context.

Background

4.3 Under the current legal framework in Singapore, online political content is mainly regulated through the class licensing regime under the Broadcasting Act. Other laws are also applicable to political content conveyed by the new media. Specifically, party political films distributed over the Internet are regulated under the Films Act and the use of the Internet during elections is regulated under the Parliamentary Elections Act.

Class Licence Scheme

4.4 The Broadcasting (Class Licence) Notification,[59] also known as the Internet Class Licence Scheme, was formulated in 1996 as part of the Government's efforts to minimise the perils of cyberspace. It is part of a three-pronged approach – the other two limbs are media literacy and industry self-regulation – developed by the Government. The Class Licence Scheme is also central to the Government's "light-touch" approach to the Internet.

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59   Broadcasting (Class License) Notification. Singapore Broadcasting Act (Chapter 28), Section 9.

4.5   The Class Licence Scheme covers both Internet content and service providers. It deals with undesirable and illegal content such as pornography, extreme violence or the propagation of religious and political issues. It is an automatic licensing framework and there is no need for licensees to obtain prior approval from the MDA to operate a website.

4.6   However, the Notification requires certain groups of Internet Content Providers (ICP) to register with the MDA. Political parties and bodies of persons that engage in the propagation, promotion or discussion of political or religious issues through the Internet must register with the Authority. Individuals who provide any programme[60] (content) for the propagation, promotion or discussion of political or religious issues relating to Singapore through the Internet may have to register with the MDA.

4.7   Registering with the MDA entails providing details as to the website in question as well as the persons responsible for the content put onto the website. The MDA has always maintained that the requirement to register does not mean the discussion of political issues is disallowed. Registration instead serves to emphasise the need for responsibility on the part of those who run websites that actively engage in the discussion of domestic politics. So far only a handful of websites have been asked to register by the MDA.[61]

4.8   It is also important to highlight that other Singapore laws, both criminal and non-criminal, applicable to offline content and speech are equally applicable to online media such as blogs, online discussion forums and social networking sites. A person is liable under the laws of defamation or copyright, regardless of whether the material is published online or offline. Likewise a person who makes seditious remarks[62] or insults a public servant[63] in his blog is equally liable under the Sedition Act and the Penal Code respectively.

Internet Election Advertising

4.9   The Parliamentary Elections Act[64] and the regulations[65] made under the Act set out rules and restrictions on the manner in which the Internet can be used for election advertising and canvassing during the election period.

4.10   During the election period, only political parties, their candidates and their election agents may carry out prescribed election advertising activities on the Internet.[66] They are allowed to post on their website, photographs or representations of their candidates, party histories, biographies of candidates and their manifestoes.[67] Political parties are also allowed to host moderated chat rooms and discussion forums on their website. The use of e-mail to promote or oppose a party or candidate is also allowed, subject to certain conditions.

4.11   There is a ban on election advertising on polling day, but this does not apply to election advertising already lawfully published on the Internet before polling day or to the transmission by an individual of his own political views to another individual on a non-commercial basis.[68] The ban also does not apply to the publication of news relating to the election in a newspaper "in any medium (which would cover the Internet).

4.12   Individuals can discuss political issues, blog, post podcasts for political purposes, or carry on election advertising during the election period, but they must not consistently espouse a political line. However, individuals are not allowed to post party political videos as these are prohibited at all times. Those who "persistently propagate, promote or circulate political issues relating to Singapore"[69] may be required to register with the MDA. These registered individuals, also known as "relevant persons"[70] under the Parliamentary Elections Act, would not be permitted to provide material on the Internet that constitutes election advertising during elections period.

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64   Parliamentary Elections Act (Chapter 218, 2007 Rev Ed).

65   Parliamentary Elections (Election Advertising) Regulations (Chapter 218), Regulation 3.

66   ibid, Regulation 4. This sets out a positive list of permissible election advertising activities.

67   ibid, Regulation 4(1).

68   Parliamentary Elections Act (Chapter 218, 2007 Rev Ed). Section 78B.

69   Oral Answers to Questions, General Election Campaigns (Change of laws and regulations on use of Internet and podcasts). (2006, April 3) As mentioned by Dr Balaji Sadasivan for the Minister of Information, Communications and the Arts. Parliament No 10. Session 2, Vol 81, Sitting No 11, Hansard Col 1704.

70   Under Section 78A(3) of the Parliamentary Elections Act, "relevant person" means any person or group of persons in Singapore (other than a political party, a candidate or his election agent) which —
(a)   provides any programme on the World Wide Web through what is commonly known as the Internet under a class licence; and
(b)   is required under the conditions of the class licence to register with the Media Development Authority of Singapore on account of that person or group of persons engaging in or providing any programme for the propagation, promotion or discussion of political issues relating to Singapore, and a person or a group of persons shall be regarded as required to register with the Media Development Authority of Singapore even though the time permitted for such registration has not expired.

4.13   Currently, political campaigning (or election advertising) by political parties, candidates, election agents and registered persons (as above) on the Internet via podcasts, vodcasts, blogs and social networking sites (e.g. Facebook) during the General Elections is <u>not</u> allowed as these activities are not prescribed in the "positive list" under the Parliamentary Elections (Election Advertising) Regulations.

Party Political Films

4.14   The Films Act, which regulates all films in Singapore, was amended in 1998 to include a new provision (Section 33) that makes it an offence to import, make, reproduce, distribute, exhibit or to have in one's possession for the purpose of distributing or exhibiting any "party political film", knowing or having reasonable cause to believe the film to be a party political film.[71] A "party political film" is defined (in Section 2) as a film –

(a)   which is an advertisement made by or on behalf of any political party in Singapore or any body whose objects relate wholly or mainly to politics in Singapore, or any branch of such party or body; or

(b)   which is made by any person and directed towards any political end in Singapore.

4.15   Section 2(2) of the Act further states that a film is directed towards a political end in Singapore if it:

(a)   contains wholly or partly any matter which is intended or likely to affect voting in any election or national referendum in Singapore; or

(b)   contains wholly or partly either partisan or biased references to or comments on any political matter, including but not limited to any of the following:

   i.   an election or national referendum in Singapore;

   ii.   a candidate or group of candidates in an election;

   iii.   an issue submitted or otherwise before electors in an election or a national referendum in Singapore;

   iv.   the Government or a previous Government or the opposition to the Government or previous Government;

   v.   a Member of Parliament;

   vi.   a current policy of the Government or an issue of public

71   Films Act (Chapter 107, 1998 Rev Ed). Section 33.

controversy in Singapore; or

vii. a political party in Singapore or any body whose objects relate wholly or mainly to politics in Singapore, or any branch of such party or body.

4.16 Any film that is made solely for the purpose of reporting of current events or informing or educating persons on the procedures and polling times for any election or national referendum in Singapore is not a party political film. The Act also exempts any film that is sponsored by the Government.

4.17 The Government considered, in February 1998, that "political videos are an undesirable medium for political debate in Singapore. In a political video, political issues can be sensationalised or presented in a manner calculated to evoke emotional rather than rational reactions. Videos also do not allow for effective rebuttals. There is also a risk that political debates on serious matters will be reduced to a contest between advertising agencies, as indeed has already happened in some countries. Our intention is to keep political debates in Singapore serious and not have them become like the selling of soap. The Films Act will therefore include a provision to disallow the distribution and exhibition of party political films in Singapore. The penalty for those infringing this provision is set at a maximum of $100,000."[72]

4.18 During the second reading of the Films (Amendment) Bill in Parliament, various Members of Parliament had expressed concerns that the prohibition might discourage civic participation, restrict free speech and limit discussions about current events and issues.

4.19 Since the amendments were passed in 1998, only two films are known to have been prohibited as party political films under Section 33 of the Films Act. These are "Singapore Rebel" by Martyn See, which is about opposition party leader Chee Soon Juan and "Persistence of Vision" by three polytechnic lecturers on another opposition figure, J.B. Jeyaretnam. As the provision criminalises the making of party political films, it is possible that the existence of Section 33 has had a "chilling" effect on other films, which have therefore not been made or have never been publicised. It could therefore be that Section 33 might have had the unintended effect of narrowing the range of possible themes and topics on which local films may be made.

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72 Singapore Parliament. (1998, February 27). Second reading of Films (Amendment) Bill. Hansard, Vol 68, Col 477.

Review of Light-touch Policy

4.20   Based on information that is available publicly, it would certainly seem that the Government has kept to its promise that, in general, its touch will be light when it comes to the Internet. The Government's approach through the years seem to suggest that action will not be taken over content posted on the Internet unless it clearly crosses the out-of-bounds (OB) markers. A decade of Internet regulation has seen fewer than 30 publicised cases of infringement.[73] The Government recognises that there is no need, and in fact it is impossible, to pursue each and every transgression in cyberspace.[74] Its operating principle is to selectively target those it believes pose a clear risk in the real world. In the last few years, action has been taken for postings of seditious or racially offensive content which have gained traction in society.[75]

4.21   However, this light-touch approach may not be "light" enough. The current regulations have attracted criticisms for being overly restrictive and for promoting self-censorship. Increasingly, Singaporeans have clamoured for more space for political discourse. Some have commented that the rule pertaining to registration has a chilling effect on online speech, as the arbitrariness of deciding which website will next be called upon to submit itself to registration could promote self-censorship and a wariness about discussing certain subjects. It has even been suggested that laws and regulations specific to the Internet be abolished.

4.22   On the other hand, many members of the public support the current regulatory framework, and believe that the regulations are essential to protecting public interests. They feel that the Internet should be just another platform for the public to express their views. And like any other platform in the physical space, online users should be expected to comply with the laws of the land, intended to protect public interests. By this reasoning, freedom of speech on the Internet should not amount to an unfettered licence for anyone to deliberately propagate material that would otherwise be unlawful and prohibited under existing laws. Some of the more "conservative" voices argue that further regulations should be in place, to guard against destabilising forces which threaten our society and values.

4.23   The Government explains that there is a need for rules relating to political discussion over the Internet in part because of the ease with which comments can be posted anonymously. It is difficult to verify

73   Case files compiled by Cherian George and Yee Yeong Chong. Retrieved Jul 1, 2008, from http://calibratedcoercion.wordpress.com/case-files/

74   Speech by Dr Vivian Balakrishnan, Minister for Community Development, Youth and Sports and Second Minister for Information, Communications and the Arts, at the Foreign Correspondents Association Lunch Time Talk (2007, March 22). Retrieved from http://app.sprinter.gov.sg/data/pr/20070322979.htm

75   In 2005, two bloggers were jailed under the Sedition Act for posting inflammatory and vicious remarks about Muslims and Malays on the Internet. In the same year, a 17-year-old blogger was convicted under the Sedition Act for posting racist remarks against Malays and was given probation.

anonymous statements or accusations[76] or to identify the originator of such statements or accusations so that clarifications can be sought. Information devoid of accountability devalues the credibility of information provided on the Internet. This could end up misleading and misinforming citizens.

4.24   This was also articulated recently in a speech by Minister for Information, Communications and the Arts, Dr Lee Boon Yang. Reflecting on the impact of the Internet on the 2006 General Elections, Dr Lee said that while there is merit in the argument that people should be able to judge for themselves the information they read, he noted that there is such a large variety of blogs, some with clearly malicious content that "… it may not be easy to sort out the enlightening from the confusing - which ought to be destined for the trash can."[77]

4.25   Despite these concerns and the laws in place, very little actual action has been taken against websites that may be said to violate these OB markers. In the run-up to the 2006 General Elections and during the election campaign itself, several websites were hosting videos and audio clips of various politicians giving speeches but none of them were known to have registered with the MDA.

Are regulations still relevant?

4.26   The existing regulations have been criticised as being archaic. To a great extent, technological developments have outpaced and circumvented the law, making it extremely difficult, if not impossible, to effectively enforce them. Vodcasts, podcasts and blogs can be hosted on third party servers located outside Singapore, and even if a particular website or source is blocked (although none has been blocked merely for political content) its content can easily be mirrored onto another website. Users could post banned films online on foreign-based video sharing sites such as YouTube and Google to bypass current restrictions. Furthermore, the publicity generated by a ban might even, paradoxically, increase the reach of a particular work. For example, the banned film "Singapore Rebel" is available on YouTube and has attracted more than 150,000 views since it was made available in September 2006.

4.27   The 2008 Malaysian general election had seen extensive and creative use of new media, both by political parties as well as individuals. The U.S. Presidential election and the two parties' nomination races also demonstrate how the new media had been used effectively (or otherwise) by the candidates. In Australia, the 2007 Australian elections

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76   Keynote address by Mr David Lim, Minister of State for Defence and Information and the Arts. (2001, September 14). Retrieved from http://stars.nhb. gov.sg/stars/public/viewHTML.jsp?pdfno=2001091401

77   Speech by Dr Lee Boon Yang, Minister for Information, Communications And The Arts, at the 5th Annual PR Academy Conference "New Media: The New Frontier In Communications & PR". (2006, May 31). Retrieved from http://stars.nhb.gov.sg/stars/public/viewHTML.jsp? pdfno=20060531997

were dubbed the "Facebook Elections" and Prime Minister Kevin Rudd personally used Facebook to reach out to young voters. Whilst the specifics may differ, it is inevitable that we will similarly see a much more active online political landscape and blogosphere by the next General Election in Singapore.

4.28   These trends point towards a need to review and update current regulations to keep in step with the changing environment. Prime Minister Lee Hsien Loong noted in a recent interview that the Government will have to review regulations to meet the needs of the new age, while proceeding with caution to moderate any adverse impacts.[78]

Online Election Advertising in Other Countries

4.29   Restrictions on Internet election advertising are not unique to Singapore. In reviewing our regulations, it is useful to study how other countries deal with online political campaigning. In particular, we will focus on Japan, Korea, Australia and Canada. These countries have varying degrees of restrictions on Internet election advertising, from a total ban on online political activities in highly wired Japan to minimal restrictions in Australia.

Japan

4.30   Japan has a strict ban on online political activities during the election period when even political parties contesting the elections are not allowed to update their party websites on upcoming activities. Campaigning is limited to traditional methods of posters, distribution of flyers, broadcasting of views through megaphones on moving vans, and carefully structured debates broadcast on television. These rigid election campaigning laws date back several decades but are still in place to try to maintain what is deemed a fair and level playing field. There is also concern that the emotional effect of videos could be used to manipulate and influence the electorate.

4.31   The ban on online campaigning has been criticised for depriving the electorate of important information about the candidates. Those who want the ban lifted are of the view that having information from multiple media sources does more good than harm. They are confident that they are capable of deciding for themselves what information is credible. This would help the voters make informed decisions. Some suspect that the resistance to change come from the more elderly politicians who are less adept at exploiting the use of new media.

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78   Interview with Prime Minister Lee Hsien Loong by Lianhe Zaobao and published in The Straits Times. (2008, April 16). Leading and lightening up in the YouTube age. The Straits Times.

South Korea

4.32   In South Korea, emphasis is placed on the need to allow freedom of expression while ensuring that the election is fair. Internet election campaigning is allowed with strict rules relating to when campaigning can take place and the veracity of statements made.

4.33   President Roh Moo-hyun's victory in the 2002 Presidential election prompted candidates to put greater effort in their online campaigns. The Internet and netizens played a critical role in Roh's victory. The online newspaper OhmyNews helped Roh counter the criticisms of the conservative press.[79] Many Internet users posted online messages, imploring others to vote for Roh.[80]

4.34   New media is employed in campaigning efforts via the Internet and mobile phones, two technologies with the highest penetration rate in the country. Political parties have devoted much of their campaigning to creating professionally designed websites with interactive applications. Candidates have also created pro-voting mobile ring tones and sent mobile advertisements to voters in an attempt to reach out to them. The Internet is also a platform often used by candidates and citizens to stage debates and post commentaries.

4.35   An independent National Election Commission was set up to ensure fair elections. This commission recognised the impact that information posted on the Internet could have on the outcome of the election. Hence, it set up the Internet Election News Deliberation Commission, which monitors the Internet to ensure fair reporting of events. The election law is particularly strict in ensuring the fairness and accuracy of reported information as this could affect the election outcome. The Internet Election News Deliberation Commission monitors online activity during the electioneering period and takes action against candidates and citizens who flout the rules. However, there is much debate over certain grey areas such as satirical commentary and videos that had appeared online during non-campaigning periods.[81]

4.36   Authorities are particularly strict about the no campaigning rule which runs for a period of 90 days prior to the start of the campaign.[82] This is to prevent an unfair advantage for richer candidates and parties, who could afford a longer campaign, to gain more reach and influence.

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79   Clifford, M., L., & Ihlwan, M. (2003, February 24). The Web Site that Elected a President. BusinessWeek.

80   The Korean Times. (2002, December 24). Roh's Online Supporters Behind Victory.

81   Kim, S. (2004, April 6) Political parodies: free expression or law violations? The Korean Herald. Reproduced on Asiamedia. Retrieved from http://www. asiamedia.ucla.edu/article.asp? parentid=9788

82   In South Korea, the Presidential and Parliamentary elections are fixed on particular dates. The next Parliamentary election is on 9 April 2012. The next Presidential election is on 19 December 2012.

Australia

4.37   In Australia, there is a three-day election advertising blackout on all electronic media, from midnight on the Wednesday before polling day to the end of polling on Saturday.[83] However, this blackout applies only to advertising on television and radio, and not the Internet. The blackout provides a "cooling off" period in the lead up to polling day, during which political parties, candidates and others are no longer able to purchase time on television and radio to broadcast political advertising. The intent of such regulations is to ensure that political advertising does not mislead or deceive electors.

4.38   There are minimal regulations on online election advertising. In 2005, the Commonwealth Electoral Act was amended to extend to Internet advertising, the requirement for the name and address of persons sponsoring political advertisements to appear at the end of such advertisements.[84] Prior to the amendment, this requirement only applied to printed matter.

4.39   The 2007 Federal election in Australia was dubbed by the media as the Facebook election, signalling that the Internet had a major impact on the polls. However, views from Australian academics, government officials and political observers were mixed. The general view was that Web 2.0 and the Internet did have an impact, but the degree of impact was unclear.

Canada

4.40   Canada has similar regulations on online election advertising as Australia. All election advertising that promotes or opposes a registered party or the election of a candidate, including one that takes a position on an issue associated with a registered party or candidate, must indicate in or on the message that its transmission was authorised by the official agent of the party or candidate, as the case may be .[85]

Summary

4.41   The underlying emphasis in these countries is similar – to ensure a fair election. However, some countries are stricter than others. What differentiates them are their concerns with freedom of expression and the comfort level of their politicians in using new media. Hence, countries such as Australia and Canada have taken the opposite stance from Japan's complete shutdown of Internet campaigning activity.

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83   Australian Broadcasting Services Act (1992). Schedule 2.

84   Commonwealth Electoral Act 1918. Section 328A.

85   Canada Elections Act (2000, c.9). Clause 320.

Proposed Recommendations in the Consultation Paper

4.42   AIMS believes that the online sphere holds much potential for lively, yet balanced political debate and can encourage political awareness and participation among citizens. This in turn helps promote a sense of ownership and "rootedness" on the part of citizens. The overarching intent of the recommendations below is to liberalise existing regulations to encourage active and balanced online political discussion while minimising any adverse effects.

Remove the registration requirement for individuals and bodies of persons under the Class License Scheme

4.43   Under the Class Licence Scheme, political parties and bodies of persons that engage in the propagation, promotion or discussion of political or religious issues through the Internet have to register with the MDA. As for individuals who engage in the propagation, promotion or discussion of political or religious issues online, they will need to register with the MDA when asked to do so by the Authority.

4.44   In the consultation paper, AIMS proposed that the registration requirement for individuals and bodies of persons be removed. We argued that this is unnecessary as there is adequate legislation in place to deal with potential threats to our society. However, we had also proposed that the registration requirement for websites belonging to registered political parties should be retained to ensure accountability, especially during elections as political parties need to adhere to a positive list for online elections advertising.

4.45   Under the existing regulation, "registered" individuals and bodies of persons are not allowed to engage in election advertising on the Internet. With the proposed recommendation, they will be able to do so. Hence, the removal of this registration requirement, which has often been criticised for restricting free speech, will lead to more online space for the general public. It will also catalyse and dovetail with the Government's e-engagement efforts.

Extend positive list for Internet election advertising

4.46   In the consultation paper, we proposed that the Parliamentary Elections Act should be changed to allow for more digital content during elections by expanding the positive list for Internet election advertising. The present list is too restrictive, and denies political contestants the use of digital technology. The extended list should include videos or recordings of live events, such as election rallies, party press conferences and constituency tours. Broadcasts of party manifestoes and stories already

aired over radio and TV should also be allowed. The use of Web 2.0 technologies by political parties to post such content should also be allowed.

4.47   The extension of the list to include Web 2.0 technology ensures that regulations keep pace with changing technology that is being increasingly used. With this amendment, all election candidates and their political parties and agents will be able to use podcasts, vodcasts, blogs and other new media tools to promote themselves, their agendas and election manifestos.

Liberalise Section 33 of the Films Act

4.48   There are several reasons why AIMS feels Section 33 of the Films Act needs to be liberalised.

4.49   First, the ban on party political films is too wide-ranging and catches the good along with the bad. Under the existing definition,[86] any film made about the Government, its policies or any controversial issue in Singapore could potentially be considered a political film. For example, filmmaker Jack Neo's movies have often touched on public policies and issues such as education, the class divide, race and even the Electronic Road Pricing system. Many of these are controversial issues. Technically, his films could be classified as party political films. Such a broad, drift-net approach could potentially stifle creativity, as any film that touches on politics or government policies could be caught by the law. This could have a chilling effect on the development of our film and interactive digital media industry. People should be able to make videos on social or political issues without fear. This also dovetails with the need to promote creativity and to cultivate a pool of young filmmakers which would in turn enhance Singapore's reputation as a creative hub.

4.50   Second, technology has simply out-paced the law and made it increasingly difficult to enforce.[87] Banned films can simply find their way into homes of Singaporeans through the Internet. Two disallowed films, Martyn See's "Singapore Rebel" and "Zahari's 17 years" are available on YouTube and other video-sharing services. A more recent example is the controversial film "Fitna" by Dutch MP Geert Wilders which was regarded as provocatively insulting to Islam. Although broadcasters refused to show the film, and even the Internet provider hosting the film's website removed it from the site, it was nonetheless released through

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86   As elaborated in para 4.15.

87   Key technological changes are faster Internet access speeds due to cheaper broadband access and innovations such as video sharing sites like YouTube. These have made it easy for people to share and watch relatively high quality videos online. Looking ahead, the next generation broadband network will be rolled out making access speeds even faster, rendering the law even less effective. Next Gen NII is Singapore's new digital super-highway for super-connectivity. Next Gen NII has two components: A wired broadband network that will deliver ultra-high broadband speeds to all homes, offices and schools, while a wireless broadband network will offer pervasive connectivity around Singapore.

video-hosting site Liveleak. Within hours of its release, it was replicated on other video-sharing sites and blogs. The easy availability of videos on YouTube, Liveleak and other sources underscores the difficulty of banning or blocking videos, whether in Singapore or elsewhere.

4.51 Technology has also enabled videos to be produced and distributed cheaply and easily. Anyone with a personal video camera or even a digital camera or mobile phone can now make a film and upload it on the Internet. Production and distribution are no longer restricted to film studios or production houses. The simple fact is that political videos, parodies and satires are part of contemporary culture.

4.52 Third, a variety of other non-media specific legislation, which addresses potential threats to our society, is already in place. Existing racial and religious harmony laws are robust with the recent amendments in the Penal Code relating to incitement of racial or religious hatred.[88] There are also defamation and sedition laws to tackle libellous and seditious content respectively. The Parliamentary Elections Act also regulates political campaigning during the crucial elections period. Hence, it is unnecessary to have a separate piece of legislation to regulate party political films, especially during the time outside of the elections period.

4.53 Fourth, since the introduction of the ban on party political films ten years ago, Singapore's society has been exposed to a much wider spectrum of content on the Internet. Today's better educated population has access to a greater diversity of views, perspectives and alternative values and culture. The public wants more space for the critical scrutiny of policies, and Section 33 is a barrier to this. The government needs to assess where or how to redraw the OB markers for them to remain meaningful.

4.54 To quote Dr Vivian Balakrishnan,[89]

> "Governments need to give people as much information as possible on a subject, and give them room to discuss and arrive at solutions. With adequate information and space, we hope that rational and constructive views will prevail. Governments will still have to set agendas and exercise leadership, but they will have to do so consensually and collectively, except where national security is at stake."

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88 See amended sections 298 (Uttering words, etc., with deliberate intent to wound the religious or racial feelings of any person) and 298A (Promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony) of the Penal Code.

89 Speech by Dr Vivian Balakrishnan, Minister for Community Development, Youth and Sports, at the 7th Annual PR Academy Conference: Strategic Communication: Communicating In a New Media Environment. (2008, May 22). Retrieved from http://app.sprinter.gov.sg/data/pr/ 20080522994.htm

Repealing the ban on party political films will be a step forward in this direction and will encourage citizens to discuss issues using different channels of communication.

4.55   Fifth, Section 33 shuts out a potentially valuable channel of communication between political parties and the electorate at a time when the new media has become an important platform for public discourse, as can be seen overseas. Globally, politicians have started using new media to engage constituents who are new media savvy. In 2008, the Japanese Prime Minister Yasuo Fukuda sent out his New Year's greetings on his party's Liberal Democratic YouTube channel in a short five-minute clip.[90] In the US, the campaign to be party nominee for President has been dubbed the "YouTube election"[91] with the video-sharing site playing an influential role. Presidential hopefuls have debated with one another on YouTube.[92] The U.S. Department of State makes use of online videos to post press conferences and speeches to explain U.S. foreign policy.[93] In the UK, Queen Elizabeth broadcast her Christmas Day message via YouTube in 2007. "The Royal Channel", which features archival footage of the British Royal Family and events involving them, was also launched on YouTube. Singapore, being one of the most wired countries in the world, should be at the forefront of using technology to nurture a more politically engaged citizenry.

Repeal or amend the law?

4.56   The question, then, is not whether the law should be changed but *how*. There are three main ways to liberalise this law. One would be to narrow the scope of the law. Another is to repeal Section 33 altogether. The last option is a combination of the first two options.

4.57   The various options which AIMS considered are presented below.

Option 1 – Narrowing scope of law

4.58   As an alternative to totally doing away with Section 33, it may be possible to more narrowly define its scope. This option needs to be considered because the impact of politically-motivated, misleading films aimed at arousing the emotions should not be under-estimated. For example, the U.S. President-elect Barack Obama was forced to launch a website dedicated to addressing smears launched against him online during the

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90   New Year's Greetings from Yasuo Fukuda. (2008, January 1). Viewed on Jan 8, 2008, from http://youtube.com/watch?v=SwtDu1KDYo4

91   Lizza, R. (2006, August 20). The YouTube election. The New York Times. Retrieved from http://www.nytimes.com/2006/08/20/weekinreview/20lizza. html?ref=washington

92   Seelye, K. (2007, June 14). YouTube passes debate to new generation. The New York Times. Retrieved from http://www.nytimes.com/2007/06/14/us/ politics/14youtube.html?ei= 5090&en=0bdf26a98d2e6c6c&ex=1339473600&partner=rssuserland&emc=rss&pagewanted=all

93   Videos on Dipnote, U.S. Department of State blog. Viewed on Jan 8, 2008, from http://blogs.state.gov/index.php/videos

election campaign.

4.59 Currently, making a party political film is a crime. This stifles filmmakers. The broad definition of what constitutes a party political film means that the possibility of inadvertently crossing the line and making one without intending to do exists. As a first step, the Government should decriminalise the making of party political films.

4.60 Undoubtedly, politically charged films can be detrimental to society. But can't one make a distinction between entertainment which also seeks to provoke some critical thinking about the plight of the downtrodden, and a film that makes scurrilous and false allegations that undermine respect for the Government or its agencies?

4.61 It is, in theory, possible to prohibit political films that are clearly misleading. These could be films that dramatise events, edit footages or splice images together to distort facts and mislead the viewer.[94] We could therefore re-word the definition in the Act to keep such films out, while expanding the space for film makers.

4.62 The key challenge for policy makers is the tremendous difficulty in defining what distinguishes the misleading film from those that should be considered to be valuable and harmless to society as a whole.

Panel to decide on political films

4.63 It will be necessary to state with certainty what the assessment of a particular film is. At the same time, the public would require that adjudication is fair, and that the law does not stifle debate. This job is perhaps best left to an independent advisory panel made up of citizens of high standing who are non-partisan, and whose views carry weight with the public.

4.64 Currently, the Board of Film Censors (BFC) classifies all films, with recourse for appeal to a board made up of private citizens. However, the impact of films made for political purposes is harder to assess. A separate advisory panel could therefore be set up to specialise in dealing with political films.

4.65 To ensure that such a panel inspires public confidence and trust, it must have as its members, persons of high standing in society. In its work, it must be impartial, independent, and transparent. For instance, the panel should, as part of its operating procedure, ensure that the reasons for its decisions are made known to the public.

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94 One such video is a montage juxtaposing harsh statements about Islam made by the Reverend Rod Parsley with statements from Republican presidential nominee John McCain praising Parsley, a conservative evangelical leader. It was intended to injure Mr McCain's credibility. The montage eventually led him to reject Parsley's earlier endorsement of his candidacy.

4.66   However, the enormity of the panel's responsibilities cannot be under-stated. In the digital age, films that are denied classification or prevented from being distributed will simply be distributed via video-sharing and file-sharing technologies. The court of public opinion will then make its own judgment. Should the public assess the matter differently, the panel's legitimacy and trust may be eroded. The controversy will drive more viewership, and the fact that the film was disallowed by an independent panel will go against the grain of the stated goal of opening up the scope for political discourse.

Option 2 – Repeal Section 33

4.67   Given these difficulties, an outright repeal may be clearer and more effective. After all, there is currently insufficient evidence as to the quantitative impact of negative or deliberately misleading films. One British academic, Professor Stephen Coleman of the University of Leeds in Britain, believes the concern over the impact of misleading films is over-stated. Misleading views, though cleverly presented, will spawn rebuttals online. For example, whilst American filmmaker Michael Moore's films "Sicko" and "Bowling for Columbine" were enormously successful, they have also been carefully scrutinised and various arguments and facts presented in them have been criticised.[95]

4.68   Also worth noting is that political filmmakers are motivated by what they see as either bias or neglect of coverage of issues they deem important in the mainstream media. This has led some to argue that the more comprehensive, balanced and credible the mainstream media is, the less scope there is for film makers to mislead.

4.69   To manage these risks, AIMS considered the following ideas:

Option 2(a) – Classification rating for political films

4.70   In the course of our discussions in Singapore, one suggestion that has been raised was to classify and rate political films. If the worry is that political films may beguile and deceive its audience, especially the younger, presumably more impressionable, viewers, would it not be possible to apply a rating mechanism, in much the same way that films with nudity and violence are rated?

4.71   Thus, there could be, depending on the content and nature of the film, an NC-16 political film, or a R21 political film. This could protect younger viewers who may be less able to distinguish fact from hyperbole.

4.72   However, in the final analysis, we consider that this suggestion is not

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95   Lawyer David T. Hardy has a point- by-point rebuttal of Moore's anti-gun movie "Bowling for Columbine". Retrieved Jul 22, 2008, from http://www.mooreexposed.com/index.html

feasible. Giving films a "political" rating invites the same definitional problems as banning them. What is "political" such that it needs to be rated? Furthermore, rating a film R21 (Political) is also bound to invite ridicule as this will not be seen as liberalising the system.

Option 2(b) – Notification and right of reply

4.73   Another approach is to require filmmakers who want to make films of a political nature, or who are not sure if their work is political, to notify their making of a film to a central register or database.

4.74   This could be through a simple on-line notification process, which is not a pre-requisite to the film being made, but a way to ensure accountability for the contents of a film. It could thus be an easily-satisfied pre-requisite to the distribution or public exhibition of a film. As a notification process, it is also not an "approval" regime that requires that discretion be applied or a decision be taken as to whether or not a film is "acceptable".

4.75   This approach is in line with the MDA's light-touch policy. It is also useful as it provides a mechanism to compel a right of reply should one be demanded. For instance, if one political party makes a film about another and distorts the facts, the maligned party could insist that a right of reply is accorded to the allegedly maligned party. Both sides can thus have their say.

4.76   However, there are also difficulties with this approach. It is not certain if such a right of reply is practical in this medium. Enforceability is another. There is little incentive for any filmmaker to notify the making of the film unless the filmmaker wants to get permission to screen it publicly. If the intention is to merely film and upload it on the Internet, there is little that the state can do. Offering limited protection from liability to filmmakers who notify and comply with the need to grant any aggrieved party a right of reply might act as some form of incentive.

4.77   Another problem is more significant. It is likely that the making and distribution of such films will be at a fever pitch during an election campaign which could be as short as nine days long. A film could easily be released just before polling day, and the opportunity to respond may, even if accorded, amount to little. The supposed "self-correcting" nature of the Internet, through which the collective wisdom of a "crowd" is supposed to self-police content on the Internet, may fail to kick in effectively.

Option 2(c) – Restrict the distribution and exhibition of party political films using the Parliamentary Elections Act, during a specific blackout period

4.78   To address the risks in a more targeted manner, another proposal is to

treat the election campaign period, beginning from the issue of the writ of election to the end of the polling day as being a "blackout period". During this blackout period, the creation or distribution of new[96] party political films as defined under the present Films Act can be restricted.

4.79   We recognise the limitations of this recommendation because the influence of films made and distributed outside this period could persist. Furthermore, the incumbent political party may be said to have prior knowledge of when a General Election would be called, and may release party political films just before elections are called. However, this concern should not be overstated as there is in practice a gap between the time Parliament is prorogued and the start of the election campaign period. In addition, there will be many other avenues to reply to party political films posted just before the election campaign period.

4.80   However, between a "free-for-all" regime in many countries and those that ban online election campaigning altogether, this compromise is attractive. If the intention is to reduce the likelihood that election results might be tainted or affected by films calculated to shock or mislead, then this blackout period is clearly justifiable. For the rest of the time, restrictions are not in place, and film-makers can be at liberty to do as they please, within the constraints of other laws, but without any special treatment for "party political films".

4.81   After considering all the three ideas to manage the risks, we feel that if Section 33 is to be repealed, the best option would be to impose a strict black-out period i.e. option 2(c).

Option 3 – Repeal Section 33 in phases

4.82   No expert can predict with any certainty the consequences and impact of an immediate repeal of Section 33 of the Films Act. A "safer" option is therefore to work towards the repeal of Section 33 in phases by first narrowing its scope with the intention that the final destination would be to repeal Section 33 entirely. Although we had expressed, at para 4.66 above, reservations on the enormous difficulties that an independent advisory panel will face, a phased option will allow an objective evaluation of how it would actually work in practice. The experience gained from the deliberations of the independent advisory panel could be invaluable. A carefully constituted panel should be given an opportunity to establish its credibility through sound and transparent judgment calls. The court of public opinion may as a result pronounce a favourable judgment of trust in the panel's credibility. This phased option will also allow all stakeholders to monitor and analyse the impact of misleading films on political discourse as Singapore's society evolves and digital

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96   Party political films released after the issue of the writ of election.

technology advances. Section 33 can be repealed when the negative risks of misleading films are assessed to have been minimised.

4.83   Which of these three options is best? This question was put to the public in the hope that these ideas can be further improved upon, or inspire fresh ones.

Public Feedback

4.84   The proposal to liberalise the regulation of online political content was well received, and attracted the most attention in the offline and online media.

4.85   Virtually all feedback agreed that political liberalisation was a step in the right direction as a significant number of people were already making political statements and uploading party political videos online. Most respondents agreed with the need to liberalise Section 33 of the Films Act.

4.86   While most agreed that political expression should be given greater play in the new media, some, including an editorial in Lianhe Zaobao[97], cautioned that this should be done in a responsible manner, without jeopardising our political stability.

On the Class Licence Scheme

4.87   Public feedback was mostly in favour of removing the registration requirement for individuals and bodies of persons. This proposal was also welcomed by the online community, although some saw it as merely an attempt to do away with a piece of "useless" legislation that was unenforceable anyway.

4.88   However, there were people who were not in favour of our proposal to retain the registration requirement for websites belonging to political parties. They felt that the registration requirement should also be removed for political parties in the interest of protecting free speech.

4.89   On the other hand, a small number supported the registration requirement to ensure responsibility and credibility.

4.90   The group of 13 bloggers went further and suggested dismantling the entire Class Licence Scheme. This view is shared by a minority who favour complete liberalisation of Internet regulation. The bloggers are of the view that the Class Licence Scheme gives the MDA an unacceptably high level of administrative discretion, which results in a lack of certainty in interpretation and limited avenues for recourse. They also called for

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97   新媒体应在负责任中开放. (2008, September 2). Lianhe Zaobao.

a "pruning of the processes (of regulation), with particular emphasis on removing administrative discretion, including the power to impose fines". In place of the Class Licence Scheme, the bloggers suggested having "community moderation", but they have not spelt out what exactly that is and how it can be achieved.

4.91   Overall, there was a call for greater predictability and transparency in the law regulating cyberspace content. The public expects the MDA to give reasons for its decisions, and there should be a process for appeal[98].

4.92   However, while there were criticisms of the Class Licence Scheme, there were others who were satisfied with the current regulatory regime for the Internet and felt that the MDA has done a good job.

4.93   A significant number of members of the public wrote in to AIMS expressing strong support for some form of regulation.

> "Some measure of regulation, some policing on the Internet is required to ensure upholding of family values, public morality and order, and racial and religious harmony, all of which are core national values." - Charlotte Wong

> "On the issue of whether there should be laws governing the internet, I would agree that whilst it would not be feasible to have legislation in place to guard the daily goings-on of internet usage, there should definitely be some form of regulation." – Female respondent

4.94   Some members of the public opposed de-regulation for fear of innuendo and untruths being purveyed when there is a "free-for-all" on the Internet. Among this group, there are people who favour more regulation by the Government to protect its citizens from the dangers in cyberspace.

> "I favour more regulation, not less and believe that laws that protect the people (especially minors) would benefit future generations in safeguarding our culture." – Isaac Quek

On extending positive list for Internet election advertising

4.95   This proposal was warmly supported by the public, including the online community. A group of 13 bloggers went further and questioned the

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98   Feedback from AIMS public forum on 19 September 2008.

need to have a positive list for Internet election advertising at all. They suggested removing it altogether.

On Section 33 of the Films Act

Option 1 – Narrowing scope of law

4.96   There was a sense from the feedback that Option 1 - narrowing the scope of the law - was impracticable given the very spirit of liberalisation and the difficulties posed to enforcement by technology. Concerns were raised over the difficulty of drawing the distinction between a "factual documentary" versus a "slanted" video. For instance, Workers' Party chairman Sylvia Lim asked if an opposition supporter were to collate WP's footage without presenting the PAP's responses, would that be considered slanted.[99]

4.97   Respondents agreed with AIMS that the independent advisory panel would encounter enormous difficulties. Some questioned the independence of the panel. One respondent was also worried that the panel would end up having to function like the Public Transport Council, suffering "brickbats for every decision that is overruled in the court of public opinion".

Option 2 – Repeal Section 33 with conditions

4.98   While a significant number supported the repeal of Section 33, some were uncomfortable with the idea of imposing conditions such as a black-out period for party political films during the election period. Others like Pritam Singh, however, recognised that while this proposal is not perfect, it is a "more evolutionary proposal as far as Singapore's political process is concerned". They felt that this was the only way to move forward.

4.99   Blogger Alex Au painted one problematic scenario that could result if a black-out period were imposed – if on the eve of nomination day, one side puts out a video, the other side will not get a chance to reply.

4.100   Others felt that AIMS' concern that election results might be affected by films is unfounded.

> "There is no evidence anywhere in the world of a freak election result simply due to a false and malicious video being released in the last few days of campaigning." – Gerald Giam

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99   Au Yong, J. (2008, August 23). Lights, politics, action?, The Straits Times.

4.101   Giam went on to highlight that even if there is a blackout period or if Section 33 remains on the statute books in its entirety, there is nothing stopping someone from uploading a "scurrilous" video to YouTube or other video sharing sites. The fact that it is "prohibited content" would make it even more attractive to watch.

Option 3 – Repeal Section 33 in phases

4.102   From our discussions with the public and feedback received, it is clear that not all Singaporeans want to see the law repealed immediately. Some are worried that a total repeal may bring about severe repercussions. In particular, they are concerned that one wrong decision could spark off a ripple effect to the point of no return. They prefer a calibrated approach with a repeal of Section 33 only when the negative risks of party political films are assessed to be insignificant or minimised.

4.103   Option 3 was also supported by the Law Society of Singapore. It felt that this was the most appropriate option among the three presented in the consultation paper.

Option 4 – Complete repeal without conditions

4.104   A number of people, including the group of 13 bloggers, proposed a fourth option – complete repeal of Section 33 without caveats such as a black-out period for party political films during the elections. The 13 bloggers cited a number of reasons, among them are these: First, we should have faith that misleading views would be challenged. There is evidence of this self-correcting nature of the Internet. Second, technology has made the law unenforceable. The law is diminished as a result. Third, Singaporeans are mature enough to discern what is right and wrong.

> "Classifying a film as "political" is problematic because it begs the question as to what is "political" in the first place. Meanwhile, the ease with which user-generated content may be hosted on an overseas server and hence beyond the reach of the Government's ability to compel removal (short of denying access) makes this provision easily circumvented. In supporting its repeal, the Committee does not think that it is necessary or effective to make use of the Parliamentary Elections Act to address any perceived risks for the reasons cited." - Singapore Academy of Law (SAL) ad hoc committee

4.105   Proponents of a repeal of Section 33 argue that there are already laws to adequately deal with any problems from party political films. Falsehoods or misrepresentations can be dealt with using the existing Penal Code, Sedition Act or Defamation Act.

> "The Committee is mindful that the Political Donations Act forms a framework to prevent, inter alia, external organisations from funding local political parties for ulterior motives. If at all, existing legislation may be reviewed to ensure that such sources of funding for the purpose of destabilising our political scene are sufficiently excluded. Additionally, existing laws, like the Sedition Act and the Racial Harmony Act, will continue to address important issues of inter-racial and inter-religious harmony." - Singapore Academy of Law (SAL) ad hoc committee

4.106   Furthermore, with its unfettered access to the mainstream media, the Government can easily refute any false allegations, even if they are made at the eleventh hour.

4.107   In tandem with the repeal, the group of 13 bloggers suggested that the Parliamentary Elections Act could be amended to require party political films to clearly state the particulars of the sponsor of the video, as is required in the U.S. and Australia. This will provide viewers with a frame of reference to judge the partisan nature of the video.

Section 35 of Films Act

4.108   The group of 13 bloggers also called for a repeal of Section 35 of the Films Act. Section 35 of the Films Act empowers the Minister to ban any film that is against the "public interest". Those found to be in possession of or distributing the film may be fined up to $10,000 and jailed up to two years, or both.[100]

4.109   During the AIMS public forum held on 19 September 2008, Choo Zheng Xi, editor of the blog The Online Citizen and a member of the group of 13 bloggers, expressed fears that even if Section 33 was repealed, the authorities could use Section 35 to ban political films now prohibited by Section 33. He argued that since the public might still be worried

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100 Minister may prohibit possession or distribution of any film
     35. —(1) Notwithstanding the provisions of this Act if the Minister is of the opinion that the possession or distribution of any film would be contrary to the public interest, he may, in his discretion, by order published in the Gazette prohibit the possession or distribution of that film by any person.
     (2) Any person who has in his possession or who distributes any film the possession or distribution of which has been prohibited under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding $10,000 or to imprisonment for a term not exceeding 2 years or to both, and the film shall be destroyed or otherwise disposed of as the Minister thinks fit.

about putting political material online if only Section 33 and not 35 were repealed, it would be important to make clear to the public that Section 35 would not be used to cover films under Section 33 in such an eventuality.

Recommendations Following Public Feedback

» **Remove registration requirement for individuals, bodies of persons and political parties**

4.110   AIMS agrees that we could go further and remove the registration requirement for websites belonging to registered political parties. There are sufficient measures under existing laws, e.g. the Parliamentary Elections Act and Political Donations Act, to ensure the accountability of political parties. Hence, AIMS recommends the removal of the registration requirement for individuals, bodies of persons and political parties who provide any programme, for the propagation, promotion or discussion of political or religious issues relating to Singapore through the Internet.

» **Update the Class Licence Scheme**

4.111   AIMS is of the view that the Class Licence Scheme should remain as it is the foundation of the light-touch policy that the Government has had in place for the last decade, a policy that has generally worked well. As stated in the consultation paper, AIMS is of the view that "free-for-all" is not feasible. The key issue is what kind of regulation can allow us to harness the benefits of the Internet while minimising the potential for harm. Increasingly, more countries are stepping up their regulatory and enforcement efforts to weed out the dangers online. Recently, the South Korean Police started to crack down on people who spread malicious rumours on the Internet[101].

4.112   The Class Licence Scheme allows the Government to act nimbly and deal with potential transgressions. If it is dismantled, the only way the Government can intervene in matters against public interest or immorality would be through legislation such as the Sedition Act or Penal Code. This would mean that a small infringement, for instance, accidentally hosting pornographic material, may end up becoming a criminal offence. Without the option of "light-touch" administrative discretion such as issuing a warning to the offender, the only choice for the Government is to charge the person in court. The result would be much more "heavy-handed" and wastes both time and money. It is akin to using a sledge-hammer instead of a pruning knife to nip the problem in the bud.

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101 South Korea to curb web rumours (2008, October 5). Straits Times Online. Retrieved from http://www.straitstimes.com/Breaking%2BNews/World/Story/STIStory_286231.html

4.113   Moreover, the Class Licence Scheme is a preventive measure, as opposed to action that is taken after harm is done. The merits of a preventive measure and those of *post-facto* action were debated at AIMS' public forum on the 19 September 2008. Essentially the argument was whether a preventive regulatory regime is more effective than a regime that acts only after harm has been done. Blogger Alex Au argued that having the ability to act only after the harm has been done does not incapacitate the Government. He cited the recent example of the bloggers who were charged with racism under the Sedition Act. In place of a regulatory scheme, the bloggers 13 also argued that there should be more space for community moderation that promotes bottom-up self-regulation instead of a top-down approach.

4.114   The idea of community moderation, by which we mean active community action in promoting proper cyberspace conduct while stamping out what is improper, is an appealing one. AIMS encourages efforts by the community to self-police and develop its own "social immunity system." An example of this would be Web 2.0 guru Tim O'Reilly's idea of a code of conduct for bloggers.[102] This we support, as did some of our respondents. At the same time, however, there is no reason why such a community moderation movement cannot continue to take root even as the Class Licence Scheme is in effect. Voluntary regulation needs support from the community and stakeholders for it to work.

4.115   Moreover, AIMS believes that the law should only be used in extreme situations. There could be instances where having a preventive regime that empowers the Government to act before the harm spreads is important. For instance, in 2005, the MDA issued a take-down notice to Fridae.com for depicting incest and blacklisted Fluffboy.com for paedophilia.[103]

4.116   However, there is a perception that the Class Licence Scheme promotes self-censorship and stifles free of expression. But, it should be asked whether such a climate of fear is perceived or real. Websites such as The Online Citizen, Yawning Bread and Sgpolitics.net are good examples of how freedom of speech continues to grow despite the presence of the regulation. Many of these sites are critical of the Government and the establishment, but none of them has been shut down nor their easily identifiable writers punished.

4.117   Furthermore, the Class Licence Scheme is a complaints-based system. It encourages co-regulation by the community. It provides guidelines

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102 O'Reilly's idea has met with resistance by the U.S. blogosphere and has since lost steam. Similarly, there was a call by several bloggers' to establish such a code here but the initiative was shot down by the other bloggers. See Giam, G. (2006, December 19). In support of a bloggers' Code of Ethics - Part 2. Retrieved from http://singaporepatriot.blogspot.com/2006/12/in-support-of-singaporean-bloggers-code.html

103 Oral Answers to Questions, Posting of Lewd Photographs on Blogs. (2006, April 3). As mentioned by Dr Balaji Sadasivan for the Minister of Information, Communications and the Arts. Parliament No 10. Session 2, Vol 81, Sitting No 11, Hansard Col 1710.

for what is acceptable and what is not, and MDA will only act on public complaints. In the Internet Code of Practice, what is deemed as prohibited material is clearly spelled out. It also serves as a marker for what is regarded as acceptable by the general public.

4.118   However, AIMS recognises that twelve years have passed since the Class Licence Scheme was first established in 1996. A review of the scheme is certainly due. To address the above concerns, MDA should study how to make the existing processes more transparent to assuage Netizens' concerns that these rules are in place not to clamp down on them. For example, details of investigations should be made public so that people can judge for themselves whether processes were fair. Currently, MDA issues press statements on their actions. More details of the investigations (beyond what is already in the statement) can be posted on their website. Another recommendation: MDA should publish details of complaints received and of the follow up action taken.

» Extend positive list for Internet election advertising

4.119   AIMS has considered the suggestion to remove the positive list and decided that there are good reasons for retaining the positive list. Firstly, elections are serious matters and there should be regulations to ensure the proper conduct of elections for both online and offline electioneering. Removing the positive list would lead to a "free-for-all" situation. Furthermore, as the Internet is continuously evolving, it would be more prudent to adopt a calibrated approach and liberalise progressively.

4.120   At this point, it is sufficient to extend the positive list to include Web 2.0 technology to ensure that regulations keep pace with changing technology. With this amendment, all election candidates and their political parties and agents will be able to use podcasts, vodcasts, blogs and other new media tools to promote themselves, their agendas and election manifestos.

» Liberalise Section 33 of the Films Act

4.121   AIMS is of the view that the four options each have pros and cons and none offers the perfect solution. An unconditional repeal does not give sufficient protection against intentionally misleading films. It may also encourage their production. On the other hand, amending Section 33 to target only such films can prevent their wider circulation. While such films cannot be prevented from appearing on YouTube, public screening or distribution via DVDs of the same can be halted. It is not a major preventive measure, but a measure nevertheless to limit the danger of intentionally misleading films.

4.122   Although there are no conclusive studies on the impact of intentionally misleading films on the outcome of elections, the potential dangers should not be dismissed. During our six-week public consultation, there was agreement that there are negative side-effects of politically-motivated and misleading films.

4.123   AIMS recommends repealing Section 33 in phases (option 3). As a first step, the Government should decriminalise the making of party political films and narrow the scope of the law to target only party political films that are made to intentionally mislead viewers.

4.124   AIMS believes that the final objective should be a complete repeal of Section 33. However, it would be prudent to adopt a phased approach to evaluate how narrowing the scope of the law would work in practice. There is no guarantee that no harm will be done to society and the electoral system should Section 33 be repealed immediately and unconditionally. The next General Election will be due by 2011, and it would be useful for all stakeholders to evaluate objectively whether the negative risks of intentionally misleading films have been minimised by then. If so, we can work towards a repeal of Section 33. AIMS is also sensitive to the concerns of those who argued against total repeal for fear of negative consequences.

4.125   For the proposed system to work, it is necessary for the public to have confidence that adjudication by the independent advisory panel is fair, and that the law does not stifle debate.

4.126   On Section 35, AIMS is in favour of keeping it since it could be used to cover the type of harmful videos such as the "Fitna" video. However, AIMS recommends that it should be amended to spell out clearly on what basis the Government should ban a film contrary to the public interest. In addition, AIMS recommends that the independent advisory panel for party political films should advise the Minister before a film is banned under Section 35 and the Minister should be obliged to give reasons for the ban.

Conclusion

4.127   Technology and changing social conditions in Singapore make a revision of the rules of engagement necessary from time to time. Cyberspace has become increasingly a platform of choice, if not an indispensable one, for political discourse. While it has much potential for lively and balanced debate, risks of abuse cannot be understated.

4.128   The best defence against distortive material is trust – trust that is hard earned and demonstrated. A second defence is a credible mainstream media. Thirdly, it is in the best interest of those who use new media to press their case to acquire the communications skills to do so. Singapore

is best served by political discourse that is well-informed, serious and factual. This will allow voters to consider the issues rationally, and not be unduly swayed by films or videos that mislead or trivialise important issues.

Chapter 3 **// Protection of Minors /**

PROTECTION OF MINORS

5.1   The Internet has changed how information is made available to the masses. Information that is uploaded and indexed on the web is easily searchable, and much more readily accessible as compared to paper-based collections. Consumers of information have a much wider range of media to choose from. While the Internet and new media have brought enormous benefits to everyone, it has also resulted in new dangers for a vulnerable section of our society – minors.[104]

Risks to Minors

5.2   The studies of harmful effects of new media on minors are largely similar in most countries. What differs is the assessments of the degree and severity of the problem in a particular society. The most common harmful effects are elaborated below.

Access to Harmful and Inappropriate Content

5.3   The ease of access to information and the proliferation of pornography, violence and other inappropriate content online have made it much easier for a minor to obtain or come into contact with such content. In the UK, it was found that among minors aged 9-19, 31 per cent had received unwanted sexual comments online[105] and 57 per cent of them had seen pornography online, mostly involuntarily. Most of the respondents were tricked into visiting these offensive sites by deceptive "pop-up" windows or had received hyperlinks to such material through unsolicited email.[106]

5.4   The Media Awareness Network (MNet) in Canada found that while most children had positive experiences online, many of the more popular websites among minors contained inappropriate content.[107] Aside from explicit adult content and extreme violence, MNet also recommended that minors should be taught to deal with websites that normalise and promote hate speech and racially or ethnically prejudiced speech. Children may not have the maturity or experience to identify the divisive or dangerous nature of such forms of expression.

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104 The term 'minors' refers to those who have not reached their full legal age (i.e. below the age of 21). This group of minors can be divided between children who are aged 12 and below, and youth which are between 13 - 20 years old. The reason for this segmentation is due to the different levels of self-awareness and maturity of the two groups, resulting in varied needs, habits and reactions to protective measures.

105 Livingstone, S., & Bober, M. (2005). UK Children Go Online: Final Report of Key Project Findings. London School of Economics Research Online. Retrieved from http://eprints.lse.ac.uk/399/

106 ibid.

107 Media Awareness Network. (2005). Young Canadians in a Wired World. Retrieved Feb 4, 2008, from http://www.media-awareness.ca/english/research/YCWW/phaseII/ key_findings.cfm

Online Sexual Grooming

5.5   Online sexual grooming is another cause for concern as the reach of the Internet allows sexual predators to prey on minors whom they would otherwise not be able to easily contact in the physical world. Social networking sites, instant messaging ("IM") chats and chat rooms help predators to win over the trust of minors who let their guard down in these perceptibly safe environments. Children may not be able to discern between a potential online friend of the same age and an adult with a sinister agenda due to the lack of visual and aural cues. In 1993, a famous cartoon in the New Yorker showed a pair of dogs "conversing" in front of a computer. The caption was, "On the Internet, nobody knows you're a dog".[108] Whilst superficially funny, the cartoon succinctly illustrates the problem of identity on the Internet. Minors cannot easily tell whether an IM chat request is from someone who falls within their same age-group and has the same interests, or whether it is from an adult sexual predator who had researched publicly stored information readily given out by many minors. The lack of auditory and visual clues as to the person at the other end of the Internet greatly expands the scope for sinister activities by ill-intentioned adults.

5.6   Minors, including teenagers, are the main target of online sexual predators. Girls aged 13-17 were found to be most at risk.[109] These teenagers are exploited by online predators who prey on their emotions. Some victims were found to be aware of the consequences of their actions but nevertheless fell prey to online sexual predators due their immaturity, impulsiveness and personal sexual urges.[110]

Internet Addiction

5.7   Addiction is another cause for concern in numerous countries. In South Korea and China, Internet addiction, and in particular online gaming addiction, has become a hot topic and an issue of much social concern.

5.8   In South Korea, the Centre for Internet Addiction Prevention and Counselling was set up to monitor and tackle the problem. It found that 15.8 per cent of 16-19 year olds fell into the high risk or potential risk group. More than half (56.5 per cent) in this group said they had displayed health problems as a result of their addiction.[111]

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108 Steiner, P. (1993, July 5). On the Internet, nobody knows you're a dog. [Image]. The New Yorker. Reproduced by The University of North Carolina at Chapel Hill. Retrieved on Aug 12, 2008, from http://www.unc.edu/depts/jomc/academics/dri/idog.html

109 International Association of Internet Hotlines (INHOPE). (2004). Online Grooming. Retrieved Jul 9, 2008, from https://www.inhope.org/en/problem/chat.html.

110 ibid.

111 As presented by the Centre for Internet Addiction Prevention and Counselling in South Korea during the AIMS East Asia Study Trip.

5.9   In China, the rapidly growing Internet community has also seen a rise in the number of Internet addicts throughout the country. Research by the China Youth Internet Society[112] in 2007 found that about 10 per cent of the youths in China were addicted to the Internet.

Cyberbullying

5.10   Cyberbullying refers to the use of new media to bully a person. This involves the intention to humiliate or attack another person's reputation by posting information, rumours or multimedia content online. This growing concern is marked by the rise in cyberbullying cases. Though bullying has always existed in the physical world, the new media presents bullies with more ways to inflict mental harm on his or her victim while affording more tools to avoid detection.

5.11   Examples of cyberbullying include posting embarrassing or insulting information about a person, harassment by repeatedly sending nasty, threatening or insulting messages to another, and denigrating a person's reputation through a "hate" site or other content intended for public viewing.[113] Persistent bullying has driven victims into depression or even into committing suicide. Notable cases include Dave Knight[114] who became depressed after enduring bullying from his classmates and 13 year old Ryan Halligan who committed suicide in 2003 after being bullied online and offline.[115] Another 13-year old, Megan Meier,[116] committed suicide in 2006 after her classmate's mother pretended to be a boy on social networking website MySpace to befriend her only to turn against her and taunt her, thus affecting her self-esteem to such an extent that she tragically committed suicide.

5.12   Though Singapore has not experienced similar notable cases, cyberbullying is becoming a significant worry. Teachers at AIMS' focus group discussions gave anecdotal evidence of cyberbullying in their schools.

> "There was one group of boys who were bullying a girl and they uploaded it (the video) on the Internet and after that it affected the girl emotionally in school. It became a discipline issue too and everybody involved was sent for

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112 China Youth Internet Society (2007) Survey Research Report. According to Professor Ke Huixin, Communication University of China.

113 Directgov, United Kingdom. What is Cyberbullying. Retrieved Jul 9, 2008, from http://www.direct.gov.uk/en/YoungPeople/HealthAndRelationships/Bullying/DG_070501

114 Leishman, J. (2005, March). Cyber-bullying. CBC News. Retrieved Jul 9, 2008 from http://www.cbc.ca/news/background/bullying/cyber_bullying.html

115 Frontline. (2008, January 22). Interviews – John Halligan. PBS. Retrieved Jul 9, 2008 from http://www.pbs.org/wgbh/pages/ frontline/kidsonline/interviews/halligan.html

116 Roberts, D., Paparella, A., & Chenetz, R. (2007, December 6). 'Sickened, Devastated': Parents on MySpace Suicide. ABC News. Retrieved Jul 9, 2008 from http://abcnews.go.com/2020/story? id=3958937&page=1

counselling. The girl is still affected today, because she cannot get along with them in class and she will just shy away and sometimes she (would) just cry." - Teacher

5.13   A volunteer organisation known as the "Coalition Against Bullying for Children & Youth" was set up in Singapore in 2005 to help educate parents and youths. In 2006, together with the Harvest Centre for Research, Training & Development, they conducted a survey of 4000 Singaporean youths and found that 95 per cent of respondents reported that they had been bullied in some form or another.[117] Wired Safety,[118] an online volunteer organisation providing help and education on online safety issues, found that in 2005, Singapore had the highest rate of online bullying outside of America. Although this conclusion was based on the number of cyberbullying complaints received on their website[119] and might not be representative of the true picture, it justifies a closer look at the problem.

Children are Using the Internet from a Younger Age

5.14   The National Internet Development agency of Korea (NIDA) found that in 2006, 51.6 per cent of children between the ages of 3 and 5 actively accessed the Internet.[120] 53.9 per cent of this group had been using the Internet for more than a year and are believed to have the skills to use the Internet independently. The UK's Office of Communication (Ofcom) had also reported that UK children were mastering the use of the Internet from the age of 5.[121] This trend is also seen in Singapore where children from the age of 4 are learning how to independently use the computer at certain pre-schools and enrichment programs.

5.15   The South Korean Internet Safety Commission (KISCOM) said that most of these younger children gained these media literacy skills by observing their older siblings or Internet savvy parents. Singaporean parents have also shared that their young children were able to use the computer by themselves after mirroring the actions of older siblings or of their parents.[122]

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117 Forss, P. (2006, June 13). '95 per cent of primary, secondary students experienced bullying in schools'. Channel News Asia. Retrieved Jul 1, 2008 from http://www.channelnewsasia.com/stories/singaporelocalnews/view/213431/1/.html

118 Wired Safety. Retrieved Mar 20, 2008, from http://www.wiredsafety.org/

119 Schools.com.sg. (2007, June 21). Cyber-Bullying on the rise. Retrieved from http://www.schools.com.sg/articles/210607cyberbully.asp

120 As presented by the South Korean Internet Safety Commission (KISCOM) during the AIMS East Asia Study Trip.

121 Office of Communications (Ofcom), United Kingdom. (2008). Media Literacy Audit. Retrieved from http://www.ofcom.org.uk/advice/media_literacy/medlitpub/medlitpubrss/ml_childrens08/

122 Findings from AIMS discussion dialogues with parents and educators.

Increasing Usage of Internet Through Mobile Devices by Minors

5.16   Another trend resulting in new media effects on minors is the growth in the popularity of mobile Internet access, whereby people can access the Internet from various portable devices such as mobile phones and wifi-enabled devices.

5.17   Both South Korea and Japan have shown a high adoption rate of mobile phones and the use of mobile Internet, especially by youths. A 2006 study conducted by the Japanese Ministry of Internal Affairs and Communication showed that more than half of the population, in particular teenagers, sent email and surfed the Internet via their mobile phones to such an extent that some no longer accessed their email accounts on their computers.[123] In South Korea, a 2007 NIDA survey showed that 46.2 per cent of all Internet users and 74.1 per cent of Internet users aged 12-19 used their mobile phones to access the Internet.[124] This increase in the usage of mobile Internet is making it more difficult for parents to physically supervise and provide guidance over the content that children are accessing online. With mobile Internet access in Singapore likely to be become cheaper, a similar trend may emerge in Singapore.

Lack of Parental Supervision and Guidance

5.18   In addition to the trends highlighted above, the lack of monitoring and guidance from parents could also adversely affect a child's experience online. Our research has shown that this is the reality in many countries.

5.19   Ofcom's recent Media Literacy Audit Report[125] showed that youths' bedrooms were increasingly becoming media centres where they were left to entertain themselves with media. Parents who allowed their children to use the Internet independently were also less likely to establish ground rules to guide their children's media consumption. A 2006 Euro-barometer study commissioned by the European Union on Safer Internet[126] found that 60 per cent of European parents did not set rules to guide their children's Internet experience.

5.20   This lack of supervision does not always indicate nonchalance on the part of parents but could be attributed to several factors. Firstly, the nature of new media consumption is largely individualistic. Coupled

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123 Hiroko, T. (2007, November 5). PCs getting pushed aside by other, powerful gadgets. The Japan Times.

124 As presented by the KISCOM during the AIMS East Asia Study Trip.

125 Office of Communications (Ofcom), United Kingdom. (2008). Media Literacy Audit. Retrieved from http://www.ofcom.org.uk/advice/media_literacy/medlitpub/medlitpubrss/ml_childrens08/

126 European Commission. (May 2006). Special Eurobarometer 250 "Safer Internet". Retrieved from http://ec.europa.eu/information_society/activities/sip/docs/eurobarometer/eurobarometer_2005_25_ms.pdf

with the rise of mobile Internet devices, parents may find it difficult to constantly supervise their children.

5.21   A second possible reason is that parents are unaware about their children's online activities or are unable to monitor them as they were not savvy with new media. The concept of "digital natives" and "digital immigrants"[127] illustrates this divide. The conventional parent-child relationship involves the parent having more experience and thus being in a better position to advise and supervise. However with new media, the "digital natives" who are born into a world where new media already exists, have no problems adapting to it and possess more technical knowledge than their parents, the "digital immigrants". The natives would be aware of ways to circumvent their parents' methods of monitoring their new media activities.

How are these Risks Managed?

5.22   The hot button issues are the lack of control over access to harmful and inappropriate content, the presence of online predators, and the dangers of addiction. Globally, governments and non-governmental organisations have employed various methods to manage the exposure of minors to harmful and inappropriate content while relying on legislation to criminalise the activities of online predators.

Restrictive Content Control Methods

Filters

5.23   Filters are one common way to shield minors from objectionable online content. They could be provided by the Internet Service Provider (ISP) or consist of client-based filtering software installed on individual terminals. At the ISP level, content is filtered before it reaches the individual's home computer. In contrast, client-based filtering software has to be installed by the user on his home computer. Countries such as Norway, Sweden and the United Kingdom have established ISP level filters to sieve out child pornography.[128] Several ISPs in various countries also provide optional child-safe filtered services. Internationally, commercial client-based software such as Net Nanny and Cyber Patrol are readily available and automatically update the client-based software with the latest lists of blocked sites.

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127 The concept of the "digital native" and the "digital immigrant" was proposed by Marc Prensky in 2001. Digital natives describes the generation of people born into the digital world and are "'native speakers' of the digital language of computers, video games and the Internet,". Digital immigrants are those born in an age before computers and have adapted to the new environment. Prensky suggests that despite being adaptable, digital immigrants will always retain a "digital immigrant accent" and instinctively react in the traditional manner they were originally socialised to react. Prensky, M. (2001). Digital Natives, Digital Immigrants. On the Horizon, 9(5), 1-6.

128 McMenamin, B. (2008, January 8). Filters needed to battle child porn. Australian IT. Retrieved from http://www.australianit.news.com.au/story/0,24897,23021828-15306,00.html

5.24   In Australia, there are plans for extensive, nationwide ISP level filtering. Australia is in the midst of a debate that might result in government mandated, nationwide ISP level filtering of child pornography and other objectionable material like extreme violence. Net Alert, the Australian government's Internet safety initiative, presently provides client based filtering software for free download.

5.25   There have been much deliberation and criticism of the effectiveness of filters. Circumvention of filters is always possible. A ten-year old child in Australia was able to bypass client-based software, whilst making it appear as if the software was still operational when checked upon by his parents.[129]

5.26   ISPs who often compete on price and the speed of access, are loath to introduce filters which may slow down traffic.[130] Whilst there are divided views as to whether filtering is effective, a recent study by the Australian Communications and Media Authority (ACMA) concluded that ISP-level filters can be effective.[131] The study by ACMA showed that filtering products were able to effectively filter out at least 88 per cent of objectionable content.

5.27   Filters would be particularly useful in protecting younger children who possess the skills to use the Internet but lack the maturity to avoid such content. For parents of younger children, filters could complement the guidance and education they provide to their children until they are old enough to protect themselves.

Internet reporting centres

5.28   Reporting centres often complement the use of filters and give Internet users an avenue to contribute to a safer Internet world. Many countries like South Korea, Japan, China and the UK[132] have set up reporting centres that allow citizens to report objectionable or illegal online content. The Internet Watch Foundation hosted in the UK is one of the largest and best known reporting centres. It focuses on the reporting of international child sexual abuse (paedophilic material and activity online) as well as material hosted in the UK that is obscene or incites hatred.

5.29   In South Korea, where the Internet penetration rate for minors aged 9 – 19 is almost 100 per cent, the Korean Internet Safety Commission (KISCOM)

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129 Higginbottom, N., & Packham, B. (2007, August 26). Student cracks Government's $84m porn filter. Herald Sun. Retrieved from http://www.news.com.au/story/0,23599,22304224-2,00.html#

130 Australian Communications and Media Authority (ACMA). (2008, February). Developments in Internet Filtering Technologies and Other Measures for Promoting Online Safety. Retrieved from http://www.acma.gov.au/webwr/_assets/main/lib310554/developments_in_internet_filters_1streport.pdf

131 Australian Communications and Media Authority (ACMA). (2008, June). Closed environment testing of ISP-level Internet content filtering. Retrieved from http://www.acma.gov.au/webwr/_assets/main/lib310554/isp-level_internet_content_filtering_trial-report.pdf.

132 Internet Watch Foundation. Retrieved Oct 16, 2008, from http://www.iwf.org.uk/

has set up a 24 hour Illegal and Harmful Information Report Centre that receives, investigates, and deals with complaints of objectionable content. They have also developed a content rating system, SafeNet, which enables website owners to rate their own content and foreign websites with the help of bots using artificial intelligence. SafeNet encourages local website owners to better inform Internet users as well as provide ISPs with a list of websites to be blocked.[133]

5.30   The International Association of Internet Hotlines (INHOPE) is an international collaboration of Internet reporting centres that help various centres exchange reports, best practices, and assist in setting up new reporting centres.[134] INHOPE targets illegal content, child pornography, online grooming and hate speech.

Age verification systems

5.31   Age verification is another method used to protect children from viewing objectionable content. In the US, users have to enter a valid credit card number as proof that he or she is above 18 years old.[135]

5.32   In South Korea, age verification is compulsory before access to material which is deemed 'harmful to youth' is granted. All search engines and portal websites have also voluntarily applied age verification systems which ask for a user's details when the user searches for keywords which may lead to material unsuitable for minors (for example, 'sex' or 'porn').[136] Visitors will have to enter their name and national resident registration number which are checked against the national database to verify that they are above 18 years of age.[137] In Australia, new rules introduced in January 2008 require Australian hosted websites that commercially provide material with a rating of M15+ and R18+, to verify that the visitors are at least 15 years old and 18 years old respectively. This verification system aims to allow more choices for adults while protecting minors.

5.33   However, these systems are not foolproof. It is not difficult for children who wish to enter adult websites to use an adult's credit card or national resident registration number to gain access.

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133 As presented by the KISCOM during the AIMS East Asia Study Trip.

134 International Association of Internet Hotlines (INHOPE). Retrieved Dec 4, 2007, from https://www.inhope.org/en/about/about.html

135 Information and Resources about the Commission on Online Child Protection (COPA). (2000). Age verification systems. Retrieved Dec 3, 2007, from http://www.copacommission.org/report/ageverification.shtml.

136 As presented by the KISCOM during the AIMS East Asia Study Trip.

137 Williams, M. (2007, May 17). Google Korea to censor search results. InfoWorld. Retrieved from http://www.infoworld.com/article/07/05/17/google-korea-to-censor-search_1.html

Legislation Protecting Children Online

Online grooming laws

5.34   Many countries have enacted legislation to criminalise online sexual grooming.[138] In the UK, Section 15 of the Sexual Offences Act 2003 makes it an offence for anyone over the age of 18 to meet a child under 16 or travel to meet them, after communicating with the child at least twice (including by phone or internet) with the intention of committing sexual activity with a child, causing or inciting a child to engage in sexual activity, engaging in sexual activity in the presence of a child and causing a child to watch a sexual act.[139] The Singapore Penal Code was recently amended to include a similar criminal offence modeled after the UK law.[140] In Australia, most state jurisdictions have made amendments to their law which criminalises the luring of minors for sexual conduct. Their laws do not require the victim to actually be a minor and a real child need not be involved in the commission of the offence. As long as the paedophile thinks the victim is a child, an offence has been committed.[141] This has resulted in successful sting operations where the police masqueraded as minors in order to bait paedophiles, thereby, preventing them from furthering their ill-intentions on real minors.

5.35   There have also been discussions about more targeted measures to prevent paedophiles from contacting minors easily. Internet Relay Chat (IRC) and chat rooms belonging to reputable websites[142] have all been identified as potential places where online grooming can and has taken place. Social networking websites[143] like MySpace,[144] Facebook and Friendster are a major cause for concern as minors post a lot of personal information on their social networking profile pages, allowing sexual groomers to easily pick and contact targets.

Industry self-regulation

5.36   The industry has taken action to target these online grooming "traps". In July 2007, MySpace announced the deletion of the profiles of 29

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138 Online sexual grooming refers to the act of an adult befriending a minor online with the intention of developing emotional control so as to pave the way to establishing a sexual relationship involving cyber sex and/or physical sex . The exact definition varies among jurisdictions.

139 Australian Institute of Criminology Online. (2008). Online Child Grooming Laws. Retrieved from http://www.aic.gov.au/publications/htcb/htcb017.html

140 Penal Code (Chapter 224). Section 376E.

141 Griffith, G., & Roth, L. (September 2007). Protecting Children From Online Sexual Predators, NSW Parliamentary Library Research Service Briefing Paper 10/07. Retrieved from http://www.parliament.nsw.gov.au/prod/parlment/publications.nsf/key/ProtectingChildrenFromOnlineSexualPredators

142 Foggo, D., Newell, C., & Foley, M. (2007, May 6). Paedophiles use Skype 'loophole' to woo children. Times Online. Retrieved from http://technology.timesonline.co.uk/tol/news/tech_and_web/the_web/article1752240.ece

143 BBC News. (2007, May 14). Web safety warning for children. Retrieved from http://news.bbc.co.uk/1/hi/uk/6652585.stm

144 CBS News. (2006, February 6). MySpace: Your Kids' Danger?. Retrieved from http://www.cbsnews.com/stories/2006/02/06/eveningnews/main1286130.shtml

000 sexual predators they had identified on their social networking website.[145] Facebook had also been under pressure from attorneys-general in the U.S. to look into the problem of sexual predators. Facebook has also been identified to contain objectionable content such as user-contributed sexually explicit photographs or user-created groups focused on deviant interests like "I'm curious about incest" and "Facebook Swingers".[146] In January 2008, after social networking giants Facebook and MySpace acknowledged their responsibility in preventing abuse by sexual predators, MySpace agreed to take stricter measures to separate children's profiles from adults and put in place stricter age verification measures.[147] All profiles created by users under 18 years of age will be automatically set to "private" so that strangers would not be able to see them.

5.37   The Home Office in UK released Social Networking guidelines in April 2008, on how the industry, parents and children can contribute to a safe social networking experience.[148] International jurisdictions are looking at how these guidelines can help create a safer online environment for children. These guidelines were developed based on a 2008 study by Dr Tanya Byron, "Safer Children in a digital world".[149] This study suggests approaching the issue from 3 angles of which one involves reducing the accessibility of harmful material. It found that although the existence of a large number of websites means that blocking is difficult to achieve, there is a "long tail" effect whereby most people accessed material from a small number of popular sources online. Hence, it remains possible to target popular areas on the Internet where children would be most vulnerable.

Education

5.38   Many countries have developed educational programmes to help teach minors about the dangers and potential harmful effects of new media to complement their regulatory measures. Many of these programmes are developed and carried out by non-governmental organisations devoted to protecting minors.

5.39   Net Alert is an Australian government funded initiative which is dedicated

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145 BBC News. (2007, July 25). MySpace bars 29,000 sex offenders. Retrieved from http://news.bbc.co.uk/2/hi/technology/6914870.stm

146 Stone, B. (2007, July 30). New Scrutiny for Facebook Over Predators. The New York Times. Retrieved from http://www.nytimes.com/2007/07/30/business/media/30facebook.html

147 Barnard, A. (2008, January 15). MySpace Agrees to Lead Fight to Stop Sex Predators. The New York Times. Retrieved from http://www.nytimes.com/2008/01/15/us/15myspace.html?_r=1&oref=slogin

148 UK Home Office Police. (2008, April 4) Social Networking Guidance. Retrived Apr 6, 2008, from http://police.homeoffice.gov.uk/operational-policing/crime-disorder/child-protection-taskforce?view=Standard

149 Byron, T. (2008). Safer Children in a digital world. Department for Children, Schools and Families, United Kingdom. Accessible from http://www.dfes.gov.uk/byronreview/

to examining the effects of new media on the young and in employing education and technical measures like filters to protect minors. They have developed several sets of educational materials targeting children, youth as well as parents and educators. The overall "Cybersafe Schools" programme employs various methods most suitable for the needs and preferences of each age group to teach cyber safety. Each programme also comes with material for teachers and parents so that they know how to use the programme and reinforce the message at home.

5.40   There are other educational programmes created by non-governmental organisations. The CyberAngels is an example of a community of volunteers who have been successful in helping to manage the problem of cyber safety. Created in 1995, they have grown into a respected online volunteer organisation.[150] Here, parents can obtain information, support and advice on how to protect their children online. They have also collaborated with Time-Warner which sponsored a public safety campaign and a "Cyber Safety Day" in New York.[151]

The Key Lies in Education

5.41   While filters and laws can be effective in protecting children from harmful online content and contact, education remains the long term answer. The adage touting the benefits of teaching a child to fish certainly holds true in this situation. Despite best efforts by parents and guardians to keep out harmful and inappropriate content, children will inevitably be exposed to them in this free flowing digital world. It is therefore important that children learn to read the danger signs and possess the necessary skills to react appropriately. Education should be seen as a foundation on which the resilience of our society against harmful effects is built. Simply relying on technical solutions or legislation would only address short term problems. Filters, restrictive systems and laws are only stopgap solutions. They create an artificial, safe "bubble" around users. While these measures are suitable for younger children who do not yet have the ability to think rationally, older users whose natural instinct is to challenge the boundaries, would learn to get round them. Education will make them aware of the dangers of doing so.

5.42   Furthermore, there are sufficient cases to suggest that objectionable material may even appear on seemingly reputable child-friendly websites like Disney.com or Neopets.com because these sites frequently allow for user-contributed content or comments. Content like hate speech is difficult to filter out as the underlying website may be otherwise "safe". In such situations, the values and critical assessment skills which the

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150 CyberAngels. Retrieved Jun 13, 2008, from http://www.cyberangels.org

151 CyberAngels. (2007, September 25). Time Warner Cable and Cyberangels Launch $500,000 Public Safety Campaign on First-Ever 'Cyber Safety Day' in New York City (Press Release). Retrieved from http://www.guardianangels.org/pdf/2108.pdf

minors have acquired are the only defences they have to discern good from bad and reject harmful material.

5.43   The Byron report[152] also provides useful ideas. Parents can be educated about the dangers that exist online and the means of shielding their children from them.

5.44   In short, it is important for minors to learn how to deal with the plethora of material in cyberspace. This calls for a sustained and comprehensive educational programme for our minors.

Media Education for Adults

5.45   Another challenge is media education for adults.

5.46   The key issue is the knowledge gap between digital immigrants (most adults) and digital natives (most minors).[153] Parents and teachers often find themselves unable to relate to children where the new media landscape is concerned. With traditional media, parents and teachers have the basic technical knowledge and understanding. In the case of new media, traditional educational methods may not work. The minors do not need adults to teach them the technical knowledge. However, possessing the technical knowledge does not mean that minors have the skills needed to critically assess the content that they consume, whether willingly or inadvertently.

5.47   Adults thus have a responsibility to learn more about new media. Parents have the greatest degree of proximity to minors, and must shoulder the greater responsibility of educating them. Educating children about online risks cannot be abdicated to schools or the Government. New approaches to education have to be developed for adults. At a minimum they must be made more aware of the online dangers. Adults may first have to learn from the young in order to gain a fuller understanding of the technology and the culture of the new media.

Opportunities and Risks

5.48   The "UK Children Go Online" project by Professor Sonia Livingstone and Dr Magdalena Bober took a detailed look at the use of the Internet by minors. They found that there was no "one size fits all approach" towards protection of minors, and that education was vital to a child's ability to maximise the benefits of new media exposure while minimising the dangers. They saw that by restricting minors' activities and experiences

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152 Byron, T. (2008). Safer Children in a digital world. Department for Children, Schools and Families, United Kingdom. Accessible from http://www.dfes.gov.uk/byronreview/

153 Prensky, M. (2001). Digital Natives, Digital Immigrants. On the Horizon, 9(5), 1-6.

online, adults were also restricting their exposure to opportunities online.[154] Professor Livingstone said, "Parents who employ supportive practices, rather than simply restricting internet use, increase their children's online skills and, as a result, increase their opportunities".[155] However, she went on to say that supportive supervision of their children's activities did not automatically translate to a reduction of risks.

5.49   Stephen Carrick-Davies, CEO of Childnet International, surmised from the report that even the savviest of minors would be exposed to risks.

> "Developing critical net-literacy skills in young people is therefore crucial, and this has to involve parents helping children and having meaningful interaction about the internet. It is also vital that teachers really understand how children are interacting on the internet outside of the classroom, where it is generally filtered, protected and supervised. This is where more work and support is needed if we are to ensure that children are truly life-literate as well as net-literate." - Stephen Carrick-Davies

What is Being Done in Singapore

5.50   In Singapore, cyber safety plans include the use of technical solutions, legislation and public education.

Funding

5.51   In 2001, the Singapore Broadcasting Authority (SBA), predecessor of the Media Development Authority, established a S$5 million Internet Public Education Fund.[156] This fund was set up with the aim of promoting online safety and was used to fund industry and community groups' efforts at creating educational materials for children and organising more public education programmes. Although the fund was fully utilised by 2005, the MDA continued to provide funding.

Family Access Networks

5.52   In 1998, the SBA together with the three ISPs[157] launched an optional Family Access Network (FAN) service. This service provides subscribers

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154 UK Children Go Online Project. (2005, February 9). Opportunities and risk go hand in hand on the Internet (Press Release). Retrieved from http://www. lse.ac.uk/collections/pressAndInformationOffice/newsAndEvents/archives/2005/Children_Online.htm

155 ibid.

156 Media Development Authority. (2001, February 21). Singapore Broadcasting Authority (SBA) Establishes $5 Million Internet Public Education Fund. Retrieved from http://www.mda.gov.sg/wms.www/thenewsdesk.aspx?sid=293

157 There are three main ISPs in Singapore, SingTel, Starhub and Pacific Net.

with Internet access filtered at the server level, essentially delivering a "clean feed" to the household without the installation of any software.[158] The provision of FAN as an option by the ISPs is mandated by the MDA as a form of public service to the community.

5.53   FAN filters out pornographic material and other undesirable content such as extreme violence, hate or terrorist websites. As it utilises server side filtering, FAN is not easily toggled on and off from the user's computer. Hence, it is suitable for parents who do not wish to deal with the hassle of installing and maintaining a desktop filter. FAN is currently available from all ISPs at a monthly fee of about S$2.

5.54   Although FAN sounds like a viable option for many busy parents, it suffers from a low take-up rate. In 2003, the National Internet Advisory Council[159] (NIAC) noted the low adoption rate and recommended that the industry actively promote and develop the FAN service. The Censorship Review Committee 2002/2003 had also recommended in 2003 that ISPs be given two years to improve on their filtering service before other measures should be looked at to give more protection to minors.[160] However, the adoption rate and level of awareness remain low. Many participants of AIMS' focus group discussions either did not know about FAN or confused it with commercial software:

> "But Singapore doesn't have such a service yet, right? I mean none of our ISPs offer it." – Teacher

There was some support for having the FAN service:

> "For parents with kids, of course you need to do that. These kids, they're very smart. They know where to go and their friends are really well-informed." – Teacher

> "My 4-year-old can actually surf the net. 4 years old only. I only go shopping for Victoria's secret online and (when he uses the Internet) instead of Victoria's secret, you don't want another Victoria to come out." – PMEB (Professionals, Managers, Executives & Businessmen) with child

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158 Media Development Authority. (2007, August 28). Family Access Network. Retrieved Apr 9, 2008, from http://www.mda.gov.sg/wms.www/devnpolicies.aspx?sid=161#3

159 The NIAC was formed in 1996 to advise SBA on new media policies and regulations, industry co-regulation and to reflect industry and public concerns on new media. It was active for 10 years and delivered annual reports detailing various recommendations. The NIAC was dissolved in 2006. Media Development Authority. (2007, March 30). National Internet Advisory Committee. Retrieved Apr 9, 2008, from http://www.mda.gov.sg/wms.www/actualTransferrer.aspx?c=10.8.&sid=195&eid=-1&fid=-1

160 The Censorship Review Committee 2002/2003 was appointed in 2002 by MICA Minister to review media guidelines and recommend changes made necessary by technology. Their 2003 report was retrieved from http://www.mda.gov.sg/wms.file/mobj/mobj.316.Censorship_Review_2003.pdf

To date, there are fewer than 20,000 subscribers to the service.

Reporting of Objectionable Content

5.55   Members of the public who wish to report objectionable material to the MDA can do so via email. MDA would investigate the reports and either issue a take down notice for material hosted in Singapore, or work with international counterparts to deal with the issue. However, this reporting channel has not been well publicised and is not well utilised.

5.56   Family Online Service, the FAN offered by SingNet, has a webpage where subscribers can report unsavoury content via an online form.[161] This service is offered by the software vendor and all complaints are maintained by the software vendor who would investigate and update the filter database.[162]

Symbolic Ban on 100 Websites

5.57   There is a ban on 100 "mass-impact objectionable websites" which are blocked at the ISP level for all residential Internet accounts. MDA has stated that this list contains mainly pornographic sites and several sites that carry extremist religious content. The list of 100 websites has never been revealed to the public. The Government recognises that blocking all undesirable websites is not feasible[163] and that there are ways to get round the ban. But it has chosen to maintain this blacklist for its symbolic value, reflecting society's values and disapproval of such content.

5.58   On May 23, 2008, MDA received much public attention for banning two pornographic video sharing websites, RedTube and YouPorn.[164] These sites were included in the list as they were easily accessible by minors and contained hardcore porn videos that could be viewed for free.[165] By adding these two websites, two others had to be removed from the list of 100 banned sites although MDA did not disclose which sites were removed from the list.

5.59   This ban has been criticised for not adding much value to society while sticking out as a lightning rod for criticism at home and abroad. In our focus group discussions with parents and educators, AIMS found that parents and teachers were under the impression that the list of blocked sites had more than the 100 sites, and that it provides enough protection

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161 Singnet Family Online Access reporting page. Retrieved Feb 2, 2008, from http://www.singnet.com.sg/product/fol/report.asp.

162 Findings from AIMS discussion dialogue with SingTel.

163 Tan, J. (1997, November 2). Banning of 100 sites more a gesture of concern. The Straits Times.

164 Reuters. (2008, May 23). Singapore bans two porn websites in symbolic move. Retrieved from http://www.reuters.com/article/internetNews/idUSSIN22017320080523

165 Chua, H., H. (2008, May 23). MDA bans two video-sharing porn sites. The Straits Times.

for their children. Some confused this ban with FAN and assumed that FAN was already provided to them for free and there was no requirement to sign up for it. Other respondents also felt that the ban was ineffective or even offensive:

"Even if they ban it (the 100 websites) there are more other websites we can still surf." - Blogger

"I think on some levels I will resent that the government is banning these websites. I mean like, what, they don't trust that we would not access these websites?" - Teacher

5.60   Though there is some merit in symbolism, it would be counter productive if the ban causes such confusion and gives parents a false sense of security.

5.61   In our view, there are other more effective measures available. They are discussed below.

Sexual Grooming Law

5.62   Section 376E which was added to the Penal Code in 2007 criminalises sexual grooming of a minor under 16. According to the new amendment, any adult aged 21 and above is guilty of sexual grooming if he/she has contacted a minor aged under 16 on 2 or more occasions and meets or travels to meet the minor with the intention of committing a sexual offence with the minor.[166] The adult has to not reasonably believe that the minor is 16 years old or older and no harm has to actually befall the minor for the adult to be found guilty. This amendment is very similar to Section 15 of UK's Sexual Offences Act (2003) and provides legal redress for victims of paedophilic sexual predators.

Education by the Government

5.63   Singapore has coined the term "Cyber Wellness" which is often used in local literature to refer to the protection of minors. Cyber wellness refers to "the positive well-being of Internet users and a healthy cyber culture for the Internet community. It involves an understanding of the risks of harmful online behaviour, an awareness of how to protect oneself and others from such behaviour, and recognition of the power of the Internet to affect oneself and the community at large".[167]

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166 Penal Code (Chapter 224). Section 376E.

167 Media Development Authority. (2007, August 28). Internet. Retrieved Jun 13, 2008, from http://www.mda.gov.sg/ wms.www/devnpolicies. aspx?sid=161

5.64   The Ministry of Education (MOE) has prescribed guidelines on cyber safety. Through research and referencing of programmes developed by other countries, MOE has created a programme for children in primary and secondary school based on a cyber wellness framework. This framework focuses on building a child's innate instinct to protect him or herself and to be responsible for his or her own safety online.[168] MOE provides schools with starter kits to develop their own materials and methods in educating children about cyber safety. Schools are also encouraged to involve parents.

5.65   However, the reality is that schools in Singapore differ greatly in their degree of focus on cyber safety. As MOE has left the implementation of these non-examinable soft-skills to the discretion of the individual schools, there are great discrepancies between schools with some children receiving little or no cyber safety instruction at all.

5.66   In April 2007, the Internet and Media Advisory Committee was formed to provide advice to the MDA and MICA on public education programmes and initiatives to promote media literacy and responsible usage of the Internet and the media. MDA has developed a MediAction! programme which supports initiatives to inculcate the right values and practices among Internet users to address the challenges and dangers of the Internet. MDA has worked with more than 100 partners from the public and private sectors and from the general population to educate youths, educators, parents and the public, on responsible and discerning use of the Internet. This includes the active promotion of cyber wellness core values that serve as guidelines to manage our media habits responsibly. In 2007, more than 300,000 people participated in the MediAction! Programme.

Community Involvement

5.67   There are also community groups involved in cyber safety education and counselling of minors in Singapore. TOUCH Community Services organises the CRuSH cyber wellness program.[169] CRuSH stands for Cyberspace Risks & where U Seek Help and focuses on promoting cyber wellness to youths, as well as adults and young children. It was first launched in September 2001 and has been receiving support and funding from the MDA, the Inter-Ministry Committee on Youth Crime and StarHub. It now encompasses a wide range of programmes including Project CRuSH, Planet CRuSH and numerous road shows.

5.68   Project CRuSH is an educational programme that teaches lower

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168 Ministry of Education, Singapore. (2008, January 28). Cyber wellness Framework. Retrieved on 13 Jun 2008, from http://www3.moe.edu.sg/edumall/tl/cyberwellness.htm

169 Planet CRuSH. Retrieved Jun 13, 2008, from http://www.planetcrush.org/index2.htm

secondary and upper primary students to adopt good values and safe behaviour. This is achieved through the use of games, case studies and structured activities that capture the students' attention and encourage learning. Topics include online chatting and gaming, addiction to porn, Internet privacy and online communities. Planet CRuSH, a more advanced programme for secondary school youths, educates them on security and unsavoury threats on the Internet (spam, hacking, porn), with a dedicated workshop using cognitive behavioural therapy to help youths gain control over their gaming habits.

5.69   TOUCH Community Services also runs the one-stop PlanetCRuSH Cyber Wellness Centre that counsels Internet addicts. It introduces these youths to healthy gaming communities and sets up mentoring relationships with youth workers. They also run workshops for parents to help them understand and address issues on gaming and addiction.

5.70   Based on our focus group discussions with parents, we found that parents do not seem to be very perturbed about the negative effects that may accompany "new media". Nevertheless, they expressed concern over two key areas:

   a.   Addiction to the Internet and gaming; and

   b.   Access to objectionable content online.

5.71   While there have been commendable efforts by MDA, MOE and community groups, they have largely been ad hoc and uncoordinated.

Proposed Recommendations in the Consultation Paper

5.72   In our consultation paper, AIMS had proposed a holistic and coordinated approach with the investment of more resources for protecting minors. It should deal with the following areas:

   a.   Focus on education.

   b.   Increase utilisation of filtering resources. Government can provide subsidies to make Family Access Network service free to households that wish to have it.

   c.   Develop local research capabilities.

   d.   Collaborate with overseas counterparts.

   e.   Foster spirit of volunteerism by encouraging more like-minded community groups to be established to tackle cyber safety.

5.73   To accomplish the above, we have recommended the following:

    a.   Establish an annual fund for the protection of minors. We propose that the annual budget be co-funded by the Government as well as the private sector, with the State providing the bulk of the resources.

    b.   Establish a dedicated coordinating agency. The agency will develop and implement a national strategy for cyber safety and cyber wellness; coordinate activities and resources across different stakeholders; administer the annual fund and tap the expertise of youths.

    c.   Lift ban on 100 websites once the proposed holistic approach has been put in place.

Public Feedback

5.74   Public feedback from individuals, organisations and industry has been largely supportive.

Response to a Dedicated Coordinating Agency and Annual Fund

5.75   Individuals who have had experience in organisations dealing with protection of minors welcomed the proposal for a dedicated agency.

5.76   They felt that existing resources could be better distributed and that there should be greater collaboration among the different existing agencies that deal with cyber safety.

5.77   Not everyone, however, was in favour of a dedicated agency. While they support having a holistic approach, they believed coordination among the existing organisations was good enough. The Singapore Academy of Law did not believe such an agency was necessary. State involvement should be limited to schools. It believed that encouraging and engaging parental groups would be a more effective and long-term solution.

5.78   The idea of a national fund was widely supported. The respondents agreed that cyber safety was as important as physical safety and that funding should come from both the public and private sectors.

5.79   There was concern over how the agency would be structured, and how it would work with existing ones.

5.80   The respondents also felt that the dedicated agency should strive to add value to existing programmes and not re-invent the wheel.

Media Literacy is Important

5.81   There was agreement with AIMS' recommendation for more media education.

5.82   Children need to learn critical skills, enabling them to be "street smart" in dealing with the many dangers that lurk in cyberspace.

> "…minors learn how to tell a bare assertion from a reasoned argument, truth from falsehood; to develop their critical faculties, the importance of intellectual diversity should be underscored; minors should be taught the importance of … hearing the other side and then evaluating the cogency of arguments on the basis of reason and conscience." – Dr Thio Li-ann

5.83   Media literacy should also be taught to parents as they are the ones who have the closest contact with their children and are in the best position to teach them how to critically use media. Parents were also seen as having the greatest responsibility in the education of their children.

> "Adults with the greatest proximity have the greatest responsibility during this time. They should be encouraged to increase media literacy as part of effective parenting." – Graduate law student

5.84   Media literacy could also benefit the online community as a whole. Terence Lee, in an article published on The Online Citizen[170], said that "part of the requirements of a functioning democracy is a well-educated populace that is media literate and well-equipped to discern between balanced and fallacious content". This would remove the need for strict regulations for fear of Singaporeans being swayed by misleading information and films.

Filtering Received Mixed Responses

5.85   There was some support for providing parents with filtering tools to help protect their children. It was recognised that while filters were neither the only solution nor a foolproof one, it was still a good tool to employ before the fruits of a sustained media education programme could be harvested.

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170 Lee, T. (Sept 4, 2008). Liberalising the Films Act? Teach Media Literacy too. The Online Citizen. Retrieved Sept 5, 2008, from http://theonlinecitizen.com/2008/09/liberalising-the-films-act-teach-media-literacy-too/

"AIMS' recommendation (for free filters) is a step in the right direction. While such filters may not be as effective in protecting older children from the harmful content that is easily available on the Internet and the new media, it would certainly be useful in preventing younger children from getting their hands on such content." – Jacelyn Chan

5.86   One respondent admitted that she had not heard of the existing family access networks (FAN) and echoed other respondents' feedback that the low take up rate of FAN could be due to low awareness among parents.

"Before reading the AIMS paper, I did not know about this service either. The low take-up rate may be simply due to lack of promotion; if such a beneficial service is to be provided, it must first be made known on a larger scale than part of the sales package rattled off by a sales assistant upon signing up with an ISP." – Graduate law student

"I agree there should be internet filters. Maybe (the) Government can conduct an awareness campaign about how important filters are (so as) to get more Singaporeans (to) take action to install." - Feedback received through SMS

5.87   However, some parents and educators felt that filters alone were insufficient protection. While filters could block out pornographic material children may accidentally stumble upon, they said that pornography was not a large problem among primary school children. Their usefulness might be limited.

5.88   There were also complaints, based on personal experience, of how inconvenient it was to subscribe to the FAN service. Some questioned if the filters were worth the hassle of signing up for them.

Excessive Gaming and Internet Use a Problem Among Young Children

5.89   Several parents and educators of primary school children had identified excessive gaming and Internet use to be a serious problem among children aged 7 – 12. One educator shared that it is common to have

several children with such problems in just one class.

5.90   Parents feel helpless.

> "One mother called me and said that she doesn't know what to do. Her son is very bright and knows what to say to make her feel guilty for taking the computer away from him. Parents nowadays don't have much time to spend with their kids so they feel guilty when the kids are angry with them." – Primary school teacher

5.91   Some parents requested that in addition to filters, tools that could help parents monitor and control their child's Internet or gaming habits be made easily available. There was also a suggestion that the problem be tackled the same way as gambling addiction and that there should be adequate channels providing parents and minors help with possible computer addiction and other issues.

Ban on 100 Websites

5.92   The question whether the ban on 100 websites should be lifted provoked robust debate. Those in favour of lifting it concurred with the argument that it gave parents a false sense of security because the Net-savvy can easily get round the ban. Therefore, the ban is purely symbolic.

5.93   This group did not like the lack of transparency. The list of websites is secret. However, it should be noted that it is necessary to keep it secret to prevent people from accessing them. There was also concern that political websites are on that secret list, thus restricting political space.

5.94   Feedback showed a lack of awareness of the ban. Can the ban be effective if they are unaware of it, asked parents and educators. Some respondents agreed with AIMS' recommendation to remove the ban, but only after more effective measures have been put into place.

5.95   On the other hand, many want the ban kept, arguing that there is value in symbolism. They felt that it is important for society to clearly state what desirable values are. One feedback suggested that symbols serve a social function. They signal to us what we should strive for and inform our personal and national identity.

> "We need to continue to send the symbolic message that our society will not tolerate or condone these sites and content." – Brenda Tan

5.96   They felt that the ban could complement AIMS' other recommendations.

> "It's a good idea to translate the symbolic to the tangible but how would that be implemented? We could implement tangible measures without the symbolism losing its effect. The two are not mutually exclusive." - Young lawyer

5.97   The argument that the ban gives parents a false sense of security cut no ice with some. To them, the better way is to educate parents so they know that the ban is largely symbolic, and that they cannot rely on it entirely to protect their children. They, too, must play their part.

5.98   There was also concern that the removal of the ban would signal a change in society and indicate that such objectionable material is now acceptable.

AIMS' Views

Positive Response to Coordinating Agency and Annual Fund

5.99   AIMS accepts that the establishment of a dedicated agency may not be easy. Practical challenges, including but not limited to cooperation with existing stakeholders are bound to arise.

5.100   AIMS also accepts the view that existing programmes have their place and they should be preserved as much as possible.

5.101   AIMS agrees that parents should have the larger responsibility in the values education of their own children. The proposed dedicated agency does not intend to transfer this to the state but aims to ensure that gaps in the present system are plugged so that parents can better fulfil their responsibilities.

5.102   AIMS also does not agree with the Singapore Academy of Law that engaging and encouraging parental groups is a superior option to a dedicated agency. The experience in Singapore of relying on such groups is not encouraging.

Media Literacy is Important

5.103   AIMS is heartened to receive feedback in agreement with the need for media literacy education. AIMS believes that media literacy can benefit society as a whole, beyond the protection of minors.

Filtering Received Mixed Responses

5.104   Education is a long- term exercise, and results do not come immediately.

Therefore, we should maximise the use of available technology, in this case filtering tools. Parents should however be made aware that filters, though useful, have their limitations and they still have a role to play as parents to ensure that their children are safe while using the Internet.

5.105 The current low take-up rate for FAN is a concern. Lack of awareness of FAN, and the difficulties of signing up for it are problems that must be addressed.

5.106 AIMS notes that objectionable online content is merely one of a range of issues facing children. Though it is not seen by some as the most critical issue, AIMS is of the view that the long established FAN service remains useful, but only as part of a suite of tools to help parents guide their children's Internet and computer use.

Excessive Gaming and Internet Use a Problem Among Young Children

5.107 Feedback indicated that excessive gaming and Internet use is a big problem among primary school children. AIMS feels that the proposed dedicated agency should take such feedback to heart and investigate and address this issue in a timely manner.

Ban on 100 Websites

5.108 The arguments for and against it are both valid. They have been set out earlier in this chapter. AIMS feels it is its responsibility to exercise its judgment and make its recommendation, aware that both sides have compelling arguments.

5.109 AIMS recognises that the Government has an obligation to protect the young. Indeed, it should take primary responsibility for it within the larger society. However, the community should also shoulder its share of the responsibility. On an individual level, parents are the primary caregivers to their children. Parents thus should be aware of their role in the protection of their children. AIMS is concerned that the status quo would lull parents into a sense of complacency.

5.110 Although we recommend that the symbolic measure of 100 blocked websites be removed, AIMS would like to clarify that it is not advocating the removal of all symbols against undesirable content. AIMS believes that the holistic measures recommended by it, including the establishment of a dedicated agency for protection of minors against the undesirable influences of cyberspace, the promotion of voluntary filtering mechanisms and the commitment of funding by both Government and industry, will in themselves be significant symbols of the Government's stand against undesirable content. Moreover, beyond being mere symbols, AIMS believes that these measures will be far more effective in addressing the

dangers of cyberspace than the symbolic 100 blocked websites. Such measures, if effective, will be more widely known than the 100 blocked websites.

5.111   After taking all feedback into consideration, AIMS makes the following recommendations:

Recommendations Following Public Feedback

5.112   A long-term, holistic and coordinated approach is the best way forward. To achieve this, AIMS proposes the following:

> **Annual Fund for the Protection of Minors**

5.113   AIMS proposes the establishment of an annual national budget to finance activities which advance the protection of minors. It should be co-funded by the Government and the private sector, with the state providing the bulk of the resources. Co-funding signals the importance of community involvement. Industry which benefits from a buoyant interactive digital media sector should support this effort because a safer cyberspace is in the greater interest of the industry.

5.114   Law and order is highly funded in Singapore. It would be prudent for the Government to treat cyber safety as seriously as it does physical safety.

5.115   Many programmes and efforts, local and foreign, have cited a lack of guaranteed and sustained funding as the main reason for their demise. Good ideas are sometimes sacrificed due to insufficient funding. Too much time had to be spent sourcing for funds. Though case-by-case ad hoc funding could potentially result in many small community projects, this is not satisfactory. Without sustained financial support, results are likely to be patchy.

> **Establish a Dedicated Coordinating Agency for the Protection of Minors**

5.116   AIMS recommends that an inter-ministerial dedicated agency be set up. It should have permanent staff and a broad representation from various stakeholders, including the public sector, academia, industry, community groups, parents and educators. This way, existing agencies can draw on their experience and contribute to this agency.

5.117   This agency should serve three key functions:

(a)   Study, formulate and implement a national strategy for cyber safety and cyber wellness in Singapore;

(b)   Coordinate activities and resources across the various government

agencies, industry players and public organisations; and

(c) Administer the national fund.

5.118   Concerns over the implementation of this recommendation should be fully addressed by the agency. Cooperation among the various stakeholders is crucial to success. Otherwise, division will result. To allow practical difficulties to deter us from proceeding is to short-change our children.

5.119   AIMS recommends that the agency regularly engage with the very minors whom they seek to protect, and the parents and educators they wish to educate. Regular consultation is important when dealing with a constantly changing new media environment.

5.120   Young digital natives are often ahead of the curve. They can spot new media trends. They also know what approaches to education are more effective. They can help policy makers stay up-to-date. To tap their expertise, the agency should consider having an advisory panel comprising young digital natives.

» Ban on 100 Websites

5.121   AIMS' original position was to lift the ban once the dedicated agency has been set up and its programmes are in place. We believe this is more effective than relying on an instrument whose symbolic value is very low given new technologies and the large and growing number of websites with undesirable content. While, there is merit in symbolism, it becomes counterproductive when it encourages complacency. Parents are given a false sense of security and have little incentive to take an active role in protecting their children.

5.122   AIMS recognises that removal of the ban may signal a higher tolerance for objectionable material. However, we believe a holistic programme that engages parents, educators and minors can counter any ill-effects from a removal of the ban. It is also a more long-term solution.

5.123   Therefore, AIMS recommends that the dedicated agency lift the ban, but only when it is satisfied that its programmes are working effectively.

5.124   In the meantime, efforts should be made to educate parents that the ban on 100 sites is simply a symbolic one and that much more needs to be done to ensure that children have a safe surfing environment.

5.125   However, when the ban is eventually lifted, the Government should still retain its residual power to block individual websites on a case-by-case basis in a transparent manner, e.g. an extremely racially inflammatory site or a child pornography site. This would be similar to practices in South Korea and Australia.

» Focus on Education

5.126   AIMS proposes that the bulk of resources be allocated to education as it is the best tool for the development of a long- term framework ensuring the protection of minors. Although it may not show immediately demonstrable returns, education provides the foundation for a more informed and self-sufficient population. The instinctive skills which media literacy education develops are particularly useful in a constantly changing new media environment with its new technologies and tools.

5.127   Interesting courses and materials are needed to educate minors as well as parents, guardians and educators. These caregivers have to learn how to use technology as well as the right skills and values to impart to their charges.

5.128   Educators have indicated that though they lack the experience in teaching cyber safety and cyber wellness, the needs of children vary. Hence comprehensive guidelines should be provided to aid teachers but enough autonomy should be given to allow them to deviate from strict prescribed teaching methods. This way, teachers can choose how to conduct their lessons according to their own proficiency.

5.129   However, it must be stressed that long term education requires commitment, which is costly, compared to relatively short-term projects or filters.

» Help Parents to Monitor and Control their Children's Internet Usage

5.130   Filters, though not fool proof, are still useful for protecting younger children who are not mature enough to fend for themselves. AIMS proposes that the present optional FAN service provided by all ISPs be greater publicised and made more accessible to Singaporean households. Households that wish to have it should get the service free, with the $2 to $3 monthly charges borne by Government and industry. This would encourage ISPs to more actively promote the FAN service.

5.131   Apart from increasing the awareness of and encouraging parents to use existing filtering resources, the dedicated agency could also look into introducing parents to other tools which could help them monitor and guide their child's Internet use.

» Develop Research Capabilities

5.132   Effective cyber safety programmes require good research. Research in the United Kingdom and Australia has significantly contributed to the development of innovative cyber safety programmes and measures. Their ideas cannot be imported wholesale. Singapore must develop its own, while leveraging on the work done elsewhere. Local academic

research on cyber safety is growing and should be further encouraged with grants that support research on cyber safety issues which are especially germane to our local context. The coordinating agency should also serve as a repository of all local academic research on cyber safety conducted to date.

» **Collaboration with Overseas Counterparts**

5.133   AIMS recommends greater collaboration with overseas organisations facing similar challenges. Protection of minors is a universal problem and it would be mutually beneficial to share research, ideas and resources. Websites which host objectionable content made available in Singapore are also mostly based overseas. Hence collaboration with foreign groups would help local organisations address this issue. Organisations we met in Australia, Canada and South Korea, have expressed great interest in cooperating with their counterparts in Singapore.

» **Encourage a Spirit of Volunteerism**

5.134   Fighting cyber crime is a community responsibility. Therefore, a spirit of volunteerism should be fostered.

5.135   Groups like TOUCH Community Services and the former Parents Advisory Group for the Internet (PAGi), are valuable. Their passion for this kind of work is a precious asset. In fact, some of the foreign organisations we met with were impressed with the work PAGi had done.

Conclusion

5.136   Protection of minors from cyberspace dangers should not remain a low-priority effort. Singapore will become more digital as the Government continues to invest heavily in digital infrastructure. Technology will be easier and cheaper to access, whether on the personal computer or hand-held devices like the mobile phone. We live in an era of rapid globalisation and rapid technological advancements. Hence online dangers can only multiply. It is better therefore to start tackling them in a sustained and coordinated way sooner rather than later. In the long run, it might well be less painful and more cost effective to expeditiously do so now.

Chapter 4 **// Intermediary Immunity for Online Defamation /**

/ Essential Ingredients of Law of Defamation / Application of Law of Defamation to the Internet / Concerns Expressed to AIMS / Singapore's Legal Position / Conferring Immunity to Intermediaries / Public Feedback / AIMS' Views / Recommendations Following Public Feedback /

INTERMEDIARY IMMUNITY FOR ONLINE DEFAMATION

Essential Ingredients of Law of Defamation

6.1   An essential ingredient of the law of defamation is the requirement that the defamatory material must be published (communicated). In the law of defamation, the word "publish" has a technical meaning that is different from the commonly understood meaning of that word. In the law of defamation, to "publish" is to communicate the defamatory matter to some person other than the person of whom it is written.[171] Under the common law of defamation (case law made through court judgments) which has been developed in the context of print publications, the different participants in a chain of publication are subject to different levels of liability. The author, editor, commercial publisher and printer of defamatory material are liable for defamation. Subordinate distributors (e.g. libraries, newsagents, booksellers, wholesalers, retailers) are also held liable but may be entitled to the defence of "innocent dissemination". They are entitled to this defence if they did not know or were not put on notice that the material was defamatory, and their lack of knowledge was not due to their negligence.[172]

6.2   Defamation can also be a criminal offence if a person makes or publishes (communicates) in electronic media any imputation concerning any person, intending to harm, or knowing or having reason to believe that such imputation will harm, that person's reputation.[173] The ingredients of criminal defamation are very similar to civil defamation.

Application of Law of Defamation to the Internet

6.3   The Internet makes instantaneous global communication available cheaply to anyone with a computer and Internet access. Internet communications potentially involve a diversity of other intermediaries. Given the volume of material on the Internet, it is impractical for Internet intermediaries to exercise much control over Internet content. It is potentially a medium of virtually limitless international defamation.[174] Claimants are more likely to bring actions for defamation against

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171 Lindsay, D. (2000, March). Liability for the Publication of Defamatory Material via the Internet. CMCITL Research paper 10, p. 19. Retrieved Aug 16, 2007, from http://www.law.unimelb.edu.au/cmcl/publications/Defamation.pdf

172 It has been suggested that the defence should apply to publishers (communicators) whose function in the communication of material is such that they are not generally in a position to know or monitor the content of communications. It is unclear whether the defence of innocent dissemination will be available to a subordinate distributor who knows that a particular publication contains defamatory material, but believes there is a good defence available in respect of that material, such as a defence of justification, fair comment or privilege.

173 Penal Code (Chapter 224). Section 499. The punishment is a fine or a maximum of 2 years imprisonment or both (section 500, Penal Code).

174 Collins, M. (2001). The law of defamation and the Internet. Para 24.02, p. 284. New York: Oxford University Press.

borderline defendants with very little role in the dissemination of the defamation simply because the creators or editors may be difficult to locate (out of jurisdiction) or anonymous.

6.4   Internet intermediaries differ from postal services and tele-communications carriers in two important respects – the storage of communications (or parts thereof) in computer systems maintained by intermediaries, and the theoretical ability to monitor the communications being carried. The functionalities of Internet intermediaries vary widely, and may be categorised as Internet Service Providers, email host providers, operators of online discussion forums/bulletin boards, interactive and non-interactive content hosts, content caches, hyperlinking/framing, information location tools and content aggregators.

Concerns Expressed to AIMS

6.5   Before the consultation paper was released, AIMS spoke to many stakeholders. In the course of these dialogues with local bloggers and industry players, the view was expressed that multinational content hosts desire clearer guidelines on their liability with regard to online material. As the position on intermediary liability is currently ambiguous and uncertain, it was felt that new media businesses, which tend to err on the side of caution, are hindered from otherwise providing excellent online content. Industry players would appreciate a clearer position on the issue of intermediary liability. It was also felt that such clarification would be helpful to responsible blog aggregators which actively moderated content and enjoyed a good reputation. Representatives from mainstream media in Singapore also felt that there is a need for protection from liability in respect of third party materials posted on their news websites such as STOMP. Moderation may be exercised after third-party contributions are posted online but there is inevitably a "lag time" between the posting of user-contributions, and the time when they can be assessed for moderation purposes. Similar concerns were also expressed by industry players during our discussions in Australia.

Singapore's Legal Position

6.6   Section 10 of the Singapore Electronic Transactions Act (ETA) confers immunity from civil and criminal liability to network service providers in respect of third-party material to which they merely provide access. The phrase "network service providers" is not defined but AIMS understands that it was intended to apply to "common carriers" and not to content hosts.[175]

175 In their consultation feedback, SingTel agreed with this observation.

6.7   There is no reported decision of a Singapore court applying the law of defamation to Internet intermediaries. It is therefore uncertain whether the Singapore courts will follow foreign judicial decisions from the U.S., England and Australia on this subject. Even if the Singapore courts decide to follow foreign judicial decisions, it is uncertain which jurisdiction's decisions might be followed. As the legal liability of Internet intermediaries under the common law in the U.S., UK and Australia differ, this uncertainty is not very satisfactory.[176] As regards liability for criminal defamation, a content host may be liable for defamatory remarks posted by a third party if the content host has knowledge of the defamatory remarks and that they are harmful to reputation.

6.8   There are other weaknesses of the current common law on intermediary liability. Intermediaries are usually not in a position to determine whether any given material is defamatory or not. Even if the material appears on its face to be defamatory, intermediaries would not be in a position to determine whether legal defences such as "fair comment" may be available. Most intermediaries have little incentive to continue carrying, hosting or linking the allegedly defamatory material, and may in the face of a complaint err on the side of caution and choose the safer path of just removing the material.[177] This may lead to abuse by persons who wish to have truthful but unfavourable material removed.

6.9   Also, case law suggests that an intermediary that takes steps to moderate third-party material is subject to a higher level of liability than an intermediary that does not attempt to moderate or monitor material. The current law therefore encourages intermediaries to turn a blind eye to material being carried, hosted or linked and this is undesirable in the context of encouraging credible, responsible and balanced content on the new media.

Conferring Immunity to Intermediaries

6.10   There is therefore a need to introduce some certainty to the legal position of intermediaries, whilst avoiding the weaknesses observed in the foreign case law. The differences between Internet and non-Internet communications such as disintermediation (removal of intermediaries or middlemen) brought about by the Internet, the automation and immediacy

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176 A handful of cases in the U.S. and England have been decided on the liability of intermediaries for Internet defamation. The USA cases (Anderson v New York Telephone Company 361 NYS 2d 913 (1974), Cubby, Inc v Compuserve Inc 776) applied the defence of innocent dissemination to an Internet intermediary who had little or no editorial control over the published material, but imposed publisher (communicator) liability on an intermediary who exercised actual editorial control over third-party material. A U.S. case also held that an ISP who provided email access is not liable as a publisher (i.e. is a mere conduit) as it did not perform any editorial or participatory function. In contrast, a UK case (Godfrey v Demon Internet Ltd [1999] 4 All ER 342.) held that an ISP who provided access to newsgroups was a publisher (communicator), and commented in passing that an ISP who provided email access would be a publisher under English law. The U.S. case law therefore provides wider protection for Internet intermediaries than the UK case law.

177 In their consultation feedback, SingTel agreed that most intermediaries now prefer to err on the side of caution and refuse to carry content or in some cases, intermediaries turn a blind eye instead of moderating content.

of the publication process and the high volume of third-party content demand a different approach. AIMS is of the opinion that there is a need to provide a conducive and predictable legal environment for credible and responsible new media players to develop and flourish. Such an environment will also be consistent with legislative developments in Europe, U.S. and Australia.[178]

Public Feedback

6.11   We received general support for the recommendations tabled in our consultation paper on this issue. Those who weighed in agreed that there should be clear rules regarding the liability of Internet intermediaries in the area of defamation and that there should be limited immunity for Internet intermediaries for third-party content.

6.12   The Law Society of Singapore agreed broadly with our recommendations. The Society suggested that any enacted legislation should expressly refer to the functions that these intermediaries carry out. It acknowledged that legislating on this may be challenging as the evolution of technology in the Internet will make it difficult to identify the language that encompasses all present and future functions that should be included in the definition. The Society further highlighted that the relationship that each intermediary has over the data they possess may differ, and that perhaps immunity should be accorded only to content hosts that take no part in the selection and design of the materials. We agree with the Society's observations. The Society also suggested that the Council consider whether an intermediary should be deprived of immunity if he did not have actual knowledge of the defamation, but knew of special circumstances that give the intermediary reason to be aware of the defamatory material. We agree that in appropriate cases, an intermediary who was wilfully blind to the existence of the defamatory material could be deprived of immunity. In such a case, the intermediary may also not be able to satisfy the requirement of "good faith".

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178 Following are examples of legislation in leading jurisdictions which attempt to address these issues. Section 230(c)(1) of the Communications Decency Act, United States – Blanket civil immunity is conferred to provide an incentive to ISPs or Bulletin Board System (BBS) operators to actively monitor or control third-party material. They are not liable even if they know of the defamatory material and refuse to remove it. This has been criticised as going too far. Section 1 of the Defamation Act 1996, United Kingdom – This is a new statutory form of defence of innocent dissemination, which applies to a broader range of persons. There have been criticisms of the wording of the provision and its ambit. There is some debate as to whether section 1 of the Defamation Act was intended to abolish and replace the common law defence of innocent dissemination. European Union Directive on Electronic Commerce – Articles 12 to 15 confer immunity to intermediaries who provide an information society service as mere conduits, and who perform caching and hosting. This Directive was transposed into UK law by the Electronic Commerce (EC Directive) Regulations 2002. Section 32 of the Defamation Act 2005, New South Wales, Australia – This appears to have adapted language from section 1 of the UK Defamation Act 1996, but with changes that seek to avoid some of the problems identified in respect of the UK provision. The section provides that certain intermediaries are subordinate distributors. Clause 91 of Schedule 5 of Australia's Broadcasting Services Act 1992 – This Australian Commonwealth (Federal) Act provides Internet service providers (ISPs) and content hosts with limited protection from both civil and criminal liability. The protection is limited because (a) it only applies to liability imposed by "a law of a State or Territory, or a rule of common law or equity" and thus does not apply to federal or Commonwealth legislation; and (b) it only applies to cases where the ISP or content host is "not aware of the nature of the Internet content" from which such liability arises.

6.13   The Singapore Academy of Law agreed generally with our recommendations. The Academy suggested that the key touchstones for determining liability of Internet intermediaries should be the degree of knowledge and control which they exercise over the offending third-party material. This has also been our view. The Academy also suggested that it may be necessary to consider whether protection for Internet intermediaries should be confined to defamation. Whilst we acknowledge this suggestion, it requires further consideration and will be studied further in our future reports. However, the Academy voiced doubts about the practicality of the "put back" regime, as the intermediary would be "in the unenviable position of having to make a judgment call when faced with an initial take-down notice and a subsequent put-back request". They suggested that the dispute between the complainant and the originator "should be properly resolved elsewhere (possibly, a suitable administrative tribunal, or the courts) and not by the online content intermediary". We address this feedback in paragraphs 6.19 and 6.25 below.

6.14   There were some calls for greater clarity on how "objectionable" content could be defined. Nominated MP and NUS law professor Thio Li-ann agreed that there should be clear rules on this issue but added that "also equally important is the chain of accountability and due diligence obligations." She further added:

> "Intermediaries may be subject to good faith duties to take down content where a "credible" complaint has been made - but is it sufficient to so calibrate responsibility in this manner? Who decides what a credible complaint is? There must be a better process than leaving it to the absolute discretion of intermediaries to do so. An oversight panel which can name and shame recalcitrant intermediaries or some such external mechanism of accountability is needed to ensure the interests of all are safeguarded. This is important given the ease of republication of the Internet (cut, paste, upload)." – Dr Thio Li-ann

6.15   Dr Thio also urged caution in granting re-publishers absolute immunity for disseminating harmful and defamatory or harassing statements as this only promotes cyberbullying and cyber-nuisance.

6.16   The idea of having a panel or organisation to arbitrate was also picked up by another respondent. Noting that there could be potential for disputes, he suggested,

> "…the government should consider enacting an

> equivalent mechanism to the Small Claims Tribunal to facilitate the receipt of complaints and provide an opportunity for complainant, content creator, and network service providers to resolve the bases of dispute, without excessive bias towards the complainant or excessive burden on the complainant to remove frivolous assertions. The mechanism would facilitate a neutral record and process of resolving such disputes, with the put-back regime an integral part of this practice." – David Tay

6.17   Another respondent suggested that if a cyber mediation body is established, it could undertake the mediation of complaints against defamation of character in cyberspace without the disputes escalating into acrimonious court disputes.

6.18   Telecommunications company, SingTel also wrote in to AIMS, expressing support for the recommendations. The company agreed that ISPs act as mere conduits and should be conferred immunity from civil and criminal liability. On the subject of the proposed limited immunity for content intermediaries, SingTel felt that more details on the proposed take down regime are needed before it could assess its practicality. Wrote SingTel: "For example, it would be necessary to assess what is 'credible' and 'authenticated' and it is necessary to also address instances where the originator of the allegedly defamatory content produces proof to counter the person who provides the 'credible' and 'authenticated' request."

AIMS' Views

6.19   The feedback from various parties shows that while they do support the recommendation, there was concern about how the process would work. For example, who would decide if content is indeed defamatory and how would one seek redress, if it is? Such comments appear to have arisen due to a misapprehension of how the proposed regime could work. In making its recommendations, the Council had confined itself to broad principles and deliberately refrained from going into details. Such details should be left to the policymakers in Government. In referring to "credible and authenticated complaint", the Council merely meant that the complaint should not be anonymous or clearly frivolous. The intermediary should not be required to make any substantive assessment of whether the impugned material is indeed defamatory. Neither should the intermediary be required to assess any "proof" by the originator of the material, before acting on a counter-notification to put back the material. We recognise that the intermediary is usually not in a position to assess the merits of the dispute. The effect of the take-down and put-back regime would be to let the intermediary step out

of the dispute, leaving the complainant and the originator to resolve their dispute through available legal means. We have thus refined our recommendations to make this clearer.

6.20   Another comment was made that re-publishers should not be granted absolute immunity as there have been websites that were set up which invited people to send abuse to targeted individuals. Our proposal is for intermediaries in such an instance to be granted limited, not absolute immunity. Such websites as described would probably fail the good faith test. We also note that deliberate re-publishers of defamatory content or instigation of such content would not fall within the category of intermediaries for which limited immunity is intended.

6.21   A number of respondents have raised the idea of establishing a tribunal or panel with oversight on these issues. South Korea has such an agency which mediates complaints relating to unfair or damaging content posted online.[179] Mediation would reduce costly court litigation by identifying the frivolous and providing a more amicable means of dispute resolution. However, if such a process is made available at a low cost, this may lead to a floodgate of cases. A sieving mechanism such as an appropriate fee structure may need to be in place. These considerations should be taken into account before a decision is taken on the type of body to be established.

Recommendations Following Public Feedback

> **Enact Legislation to Confer Limited Immunity upon Online Content Intermediaries**

6.22   The Council recommends that the relevant authorities consider enacting legislation to confer limited immunity upon online content intermediaries such as Internet content hosts and aggregators in respect of civil and criminal liability for defamation in respect of third party content where such intermediaries have acted in good faith.

6.23   In formulating the legislative provision, the relevant authorities should be mindful that it should not be a disincentive to responsible and desired conduct such as moderation in good faith by content hosts and aggregators. Content hosts who exercised moderation or some degree of editorial control should not be deprived of immunity as they would then be penalised for their effort. It would follow that immunity would not be conferred if they actively participated and connived in the publication of the defamatory material.

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179 In South Korea, the Korean Internet Safety Commission (KISCOM) established the "Mediation Department on Dispute over Defamation of Character" in July 2007 to arbitrate disputes over issues like cyber defamation, privacy infringement and insults. This was presented by KISCOM during the AIMS East Asia Study Trip.

6.24   The legislative provision should also not deprive a content host of immunity merely because he had constructive or imputed knowledge of the third-party defamatory material, provided he has acted in good faith. In other words, actual knowledge should generally be required before the intermediary is deprived of immunity.

» **Immunity should be Subject to the Obligation of the Intermediaries to Take Down Defamatory Content**

6.25   In order to balance the rights of individuals to seek redress against false allegations, this immunity should be subject to the obligation of the intermediaries to take down defamatory content on receiving a non-frivolous and authenticated request from the person allegedly defamed. The authorities may wish to consider the introduction of a "put-back regime"[180] based on a counter-notification to protect the interests of originators and to prevent abuse of the take-down regime as a means of censoring speech. The put-back regime could require the originator to authenticate his identity with the intermediary as a condition for putting back the impugned content. The removal of anonymity would signal the originator's accountability. The effect of the take down and put back regime would be to let the intermediary step out of the dispute, leaving the complainant and the originator to resolve their dispute through available legal means. Additionally, the authorities may also wish to consider a prescribed format for notice and counter-notification, to deter frivolous or abusive requests to take down content.

6.26   The Council is not making any recommendation at this point in time in respect of the suggestions for the establishment of a tribunal or panel with oversight over online defamation cases. This idea merits further study and the Council has not had the time to study it in depth.

6.27   Other considerations which the Council would recommend that the relevant authorities consider are that there should be no derogation/dilution of the existing immunity granted to "network service providers" under section 10 of the Electronic Transactions Act and that the proposed regime should not impose any additional liability to intermediaries beyond that imposed by existing law. This will give comfort and assurance to the intermediaries that the current immunity regime is not diluted and that they are not burdened by higher compliance costs.

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180 A "put-back regime" involves the intermediary putting back the allegedly defamatory content after receiving a counter-notification, and upon the satisfaction of certain conditions, including the provision of particulars by the originator.

ANNEX A: COMPOSITION OF AIMS

Composition of the Advisory Council on the Impact of New Media on Society (AIMS)

Chairman
Cheong Yip Seng
Former Editor-in-Chief,
English and Malay Newspapers
Division,
Singapore Press Holdings

Deputy Chairman
Prof Tan Cheng Han
Dean,
Faculty of Law,
National University of Singapore

Members
Lucas Chow
CEO,
MediaCorp

Robin Hu Yee Cheng
Executive Vice President,
(Chinese Newspapers/Newspaper
Services),
Singapore Press Holdings

Zuraidah Ibrahim
Associate Editor,
The Straits Times

Koh Su Haw
Assistant Vice-President,
Singapore Exchange

Prof Kuo Chen-Yu, Eddie
Professorial Fellow,
Wee Kim Wee School of
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Nanyang Technological University

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CEO Singapore,
SingTel

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Legislation and Law Reform
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Assoc Prof Daniel Seng
Associate Professor,
Faculty of Law,
National University of Singapore

Manogaran Suppiah
Chief Executive Officer,
Singapore Indian Development
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Principal Senior State Counsel,
Legislation and Law Reform
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Attorney-General's Chambers

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Singapore Internet Research
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Associate Editor,
The Straits Times

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Prof Stephen Coleman
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Studies,
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Prof Henry Jenkins
Director,
Comparative Media Studies,
Massachusetts Institute of
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ANNEX B: STAKEHOLDERS CONSULTED BEFORE CONSULTATION PAPER RELEASE

(I) Local Stakeholders

Individuals

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Nanyang Technological University

Mr Gerald Giam
Deputy Editor,
The Online Citizen

Dr Angeline Khoo
Associate Professor,
Psychology Studies,
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Mr Donald Low
Associate Fellow,
Centre of Governance and
Leadership,
Civil Service College

Mr Arun Mahizhnan
Deputy Director,
Institute of Policy Studies

Ms Cheryl Ng
Former PAGi volunteer member

Ms Jasmine Ng
Film-maker

Mr Poh Yeang Cherng
Manager,
TOUCH Cyber Wellness and
Sports

Mr James Seng
Editor,
Tomorrow.sg

Mr Siew Kum Hong
Nominated MP & Legal Counsel,
Yahoo! Singapore

Mr Tan Tarn How
Senior Research Fellow,
Institute of Policy Studies,
National University of Singapore

Mr Kelvin Tong
Film-maker

Participants of the Institute of Policy Studies' closed door discussion on "Regulating Singapore's Cyberspace"

Organisations

Coalition Against Bullying for Children and Youth

Infocomm Development Authority

Mediacorp

Ministry of Education

National Environment Agency

OCBC Bank

REACH

SingTel

Singapore Press Holdings

Focus Group Participants
Students from secondary schools and junior colleges

Tertiary students from polytechnics and universities

Single or married participants without school-going kids

Married participants with school-going kids

Teachers

Bloggers

(II) Foreign Individuals Consulted in Singapore

Prof John Seely Brown
Visiting scholar,
University of Southern California

Prof Jeffery Cole
Director,
Center for the Digital Future in
Annenberg School,
University of Southern California

Mr Steven Gan
Founder and Editor,
Malaysiakini

Prof Christian Sandvig
Associate Professor,
Coordinated Science Laboratory,
University of Illinois at Urbana-
Champaign

(III) List of Foreign Organisations Consulted on Study Trips

Australia
Australian Broadcasting Corporation

Australian Communications and Media Authority

Australian Government Information Management Office

Communications Alliance

Department of Broadband and the Digital Economy

Fairfax Digital Media

Prof Brian Fitzgerald
Head of School of Law, Queensland University of Technology

Mr David Higgins
Editor, news.com.au

Ms Kaaren Koonen
Founding member of NetAlert

Mr Peter Lynch
Managing Director, Multimedia Communications, Big Splash Media

University of New South Wales Cyberspace Law and Policy Centre

Canada
Canadian Radio-television and Telecommunications Commission

Media Awareness Network

Public Policy Forum

University of Ottawa

China
China Internet Network Information Center

EU-China Information Society Project

Internet Society of China

Professor Ke Huixin & colleagues
Communication University of China

Mr Andrew Lih

Professor Min Dahong
Chinese Academy of Social Sciences.

State Council Informatization Office

Professor Xiong Cheng Yu
Tsinghua University

Japan
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Professor Hiro Kishi
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Internet Association of Japan
Mr Izumi Aizu
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Professor Masa Inakage
Faculty of Environment and
Information Studies,
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Ministry of Economy, Trade and Industry

Ministry of Internal Affairs and Communications

Nikkei Media Lab

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Korea Game Industry Agency

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Federal Trade Commission

Georgetown University

Prof Henry Jenkins
*Comparative Media Studies,
Massachusetts Institute of
Technology*

PEW Research Centre

ANNEX C: FINDINGS FROM AIMS STUDY ON "SINGAPOREANS AND THE NEW MEDIA"

The social and political impact of new media in Singapore.

A qualitative study of Singaporeans' attitudes towards new media.

Background of the Study

One important question the Advisory Council on the Impact of the New Media on Society (AIMS) sought to answer was how important was new media in Singaporeans' lives? We wanted to find out how Singaporeans viewed the new media and what they used it for in their daily lives.

AIMS employed research firm, Asia Insight, to conduct focus group discussions on this issue with a varied group of Singaporeans. Respondents were aged 15 to 40 and were from a range of backgrounds. This study was conducted from October 2007 to February 2008.

This is a summary of the key observations drawn from the focus groups. They are not meant to be accurate reflections of the wider population but will help give insights into Singaporeans' usage of new media.

Objectives

a. To explore usage and attitudes towards various types of new media.

b. To understand the role and impact of new media in public discourse.

- Usage of new media as sources of news and information.

- Reliance on new media for information vis-à-vis traditional sources such as mass media.

- Participation in creation of media content and reasons.

c. To examine the role & impact of new media in social commentary.

- Usage of new media to create and maintain social networks.

- Comparison of new media relationships vs. others.

- Impact of new media relationships.

d. To identify types of negative experiences in using new media.

e. To understand the perceptions of Singaporeans towards the regulation of new media.

Methodology

Respondents were gathered from the following categories:

- Students from
    - Primary Schools;
    - Secondary Schools;
    - Polytechnics; and
    - Universities.
- Adults who were single/ married without school-going children
    - PMEBs (Professionals, Managers, Executives & Businessmen)
    - Administrative white collar/ Blue collared workers
- Adults who were married with school-going children
    - PMEBs
    - Administrative white collar/ blue collared workers
- Teachers
- Active political bloggers[181]

This study was carried out in two phases:

- Phase 1: Online diaries & online forum
    - Half of the respondents (excluding political bloggers) completed a 2-week long diary of their media activities
    - Diary respondents were equally spread across all focus groups segments
    - The diary respondents also participated in a closed moderated online-forum
- Phase 2: Focus group discussions & in-depth interviews
    - A combination of focus group discussions & in-depth interviews with a

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181 A sample of political bloggers were selected on the basis of their commentary on civic and political issues in their blogs, readership and activity in their blogs.

pair of respondents at a time, were conducted.

- 11 focus group discussions were conducted

- 8 paired interviews with primary school students

- 5 paired interviews with political bloggers

Findings

Usage of new media vs traditional media[182]

An important aspect of this study was to find out the level of importance people placed on both new media and traditional media respectively. We wanted to find out if new media was indeed becoming more important vis-à-vis traditional media.

- New media use tends to be more prevalent than traditional media.

    - This tendency has a positive correlation to age and qualification levels.

- The uses of new media are more varied than traditional media. This is attributed to the speed and convenience in accessing information and completing tasks using new media.

    - New media creates new areas for users to engage in: Commercial, social networking, creative and civic engagement.

- As people become more reliant on new media, there are signs of cannibalisation of traditional media by new media especially to serve the functions of:

    - Sources of news and information

    - Communication & socialisation

    - Entertainment

However, traditional media is still generally preferred for entertainment use due to its quality and its ability to serve as a communal activity.

- Users tend to feel more relaxed when using traditional media for entertainment as compared to new media.

- Users tend to use new media when:

    - They are bored.

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182 Traditional media is defined as non-Internet related media, including cable and free-to-air television, radio, newspapers and magazines. New media refers to mostly Internet-related technologies, such as instant messaging, the World Wide Web, blogs, forums, e-mail and online computer games. It also covers telecommunication devices such as PDAs, mobile phones and handheld game consoles.

- Seeking the latest updates.

- They need specific information on demand

Online relationships

- With blogging and social networking websites, online socialisation is more public

  - E-mail was the most commonly used application to communicate with people online and to maintain personal relationships. Instant messaging was the next most often cited tool.

  - Social networking and blogs were surprisingly limited in influence. While many of the younger respondents did have accounts on social networking websites and blogged, many still relied on e-mail and instant messaging to maintain contact with friends and relatives. Forums, computer game virtual environments and chatrooms were the least popular tools people said they used to maintain relationships.

- Users tend to be more passive, rather than active, in making new friends online.

  - Though they may attract unwanted attention, most users find it more of a boon than a bane.

  - Users are making a conscious effort to protect their privacy online.

- Users are generally aware of the dangers of online socialisation. Users have indicated:

  - An aversion to establishing new virtual relationships.

  - An aversion to meeting up offline with purely virtual friends.

  - Recognition of the superficiality of certain forms of online interactions.

- Users are discerning and are taking precautionary measures to ensure their safety.

  - Education, in particular parental and institutional, has been identified by participants as having a crucial role in the protection of children.

Impact of new media on political discourse

Another key area of our research focus was to find out how the Internet and new media can impact online political discourse and commentary. There is a foreign trend towards such online discourse but a study noting this trend in Singapore had yet to be undertaken. Anecdotally, we see blogs and forums dedicated to politics, however the actual impact of this online discourse on the views of people, has yet to be examined.

- It was found that the purposive nature of information search using new media results in a narrowcast rather than a broadcast channel

  - Politically, new media facilitates an amalgamation of a small group of highly involved individuals.

  - This is contrasted by the vast audience of traditional media who are largely passive and uninvolved consumers of news.

  - Although traditional media is heuristically regarded as more credible in terms of accuracy, some are turning to new media for information gathering for its speed and convenience.

- However, for some respondents, there is a second element to credibility. Accuracy aside, there is also a need to provide fairness of coverage. Several respondents said it is important for a piece of information or news story to present all possible sides of the story in order to be credible. This aspect of credibility was found to be more important to the more educated respondents of the study.

- Several respondents who viewed this second aspect of credibility as important opined that traditional media is influenced by the Singapore Government.

  - Users intuitively sieve online information to ensure a minimum level of accuracy.

- Accuracy of information is no longer a deterring factor for new media usage. They balance the lack of inherent checks in the new media with their own cross referencing of both new and traditional information sources.

Views expressed by respondents on the different media platforms

	Traditional media	New media
Accuracy	News is deemed to be more accurate due to the measures taken within the news organisations to ensure quality news reporting.	Lower barriers of entry in providing news online casts doubt on the accuracy of the news for certain online sources However, this is typically not an issue for reputable websites.
Portability	Portability of most traditional media (except TV) is still a key advantage. For instance newspapers can be read anywhere.	Cost for mobile Internet access remains to be prohibitive for most. Thus desk-based Internet access is still the norm.
Speed	News typically takes one day to turnaround on print media.	Fast turnaround – Breaking news is always first available online.
Fairness of coverage	News from the mainstream media is perceived to be skewed to be pro-government and pro-establishment. This view is particularly salient among PMEBs and university students.	What the Internet lacks in depth, new media compensates in breadth & diversity.
Depth of coverage	News from the newspapers are perceived to be more in-depth and detailed by some.	News from the Internet, in particular news websites, tend to lack depth in comparison to traditional media.

- An important observation is that Internet users generally rely on traditional media for news and new media for views.
  - The more savvy users will visit online foreign news sources for news about Singapore.
- New media has increased the exposure of Internet users to more critical and

anti-establishment interpretations of news.

- Singaporeans are largely still averse to active political participation.

    - Contrary to popular assumptions, online and offline political expression do not differ much.

    - To the common Singaporean online political expression is fraught with more apprehension and reservation.

        » Non-conducive climate: Political discussion is considered taboo.

        » Insecurities attached to Internet usage: identity and confidentiality issues.

- However, better educated Singaporeans on the higher end of the socio-economic spectrum, i.e. university students and PMEBs, are decidedly more discerning and critical of traditional media.

- They tend to be more savvy, are heavier Internet users, and have more access to alternative political viewpoints from:

    - Foreign news websites.

    - Political blogs (coincides with bloggers' take on their readership base).

- This group of Singaporeans are showing signs of being more liberal in their political views although political stability and livelihood security are still greatly treasured.

    - Hence even for this group, active political participation is still limited.

    - New media, in this sense, has grown to be a reservoir of alternative political viewpoints which do not necessarily translate to action.

- Political bloggers are generally more passionate & expressive about Singapore's current affairs.

    - They enjoy their own space of expression using new media and feel that the Government should not be suppressing their only viable outlet of expression.

    - Think that their opinions are being monitored by the Government

    - Acknowledge that their reach is limited to a small group of educated Singaporeans.

    - But they hope to reach a larger audience.

- The reach of political blogs is still limited to a small, niche and elite community.

- Not expected to be a compelling political force in the public sphere.

• New media's impact on political discourse is currently still largely limited to access to information.

   - A higher potential of greater access to more critical political information and views means that political opinion is formed on a more informed and balanced basis.

   - This exposure is currently limited to a subset of the more educated, higher income Singaporeans.

   - Potential for the online political discourse to grow as Singaporeans become more educated and dependent on new media.

Government's e-engagement efforts

Another aspect of the study was to find out what people thought of current e-engagement efforts by the Government. As a proxy, we asked respondents if they knew of any such e-engagement efforts. We showed them REACH's (Reaching Everyone or Active Citizenry @ Home) website and asked if they knew of the website. We then proceeded to query them on what they thought of REACH after briefly outlining REACH's objectives.

• Very low awareness of REACH as a platform for feedback.

   - Only a handful of respondents in focus groups knew of its existence.

• Some perceived REACH to be a token effort by the Government.

• Most did not think that feedback would be taken seriously or affect policy making.

   - Said one respondent, "Most of the time, they just take the feedback and do nothing about it, nobody knows the result of the feedback on a policy" – PMEB with children

   - It is unclear, however, if any of the respondents actually did participate in e-engagement efforts. Hence, this may merely be a perception and not based on actual experience.

• The current sentiment of scepticism is very strong

   - Respondents feel that they were dumping their feedback into a black hole and said that an automatically generated "Thank You" note was not enough.

• Some respondents felt that REACH could be a good platform for feedback but that there were confidentiality issues that hindered participation.

   - Logging in using an individual's SingPass, which is registered to an

individual's identity card number, is a stumbling block for many. They feel uncomfortable with expressing their opinions if they feel as if they could be monitored.

Protection of minors

A much-talked about issue is how to provide a safe surfing environment for children. We wanted to learn more about parents' attitudes towards new media and their children and what they thought about various measures to protect the young.

- Generally, most parents were not overly concerned about their children's usage of new media.

  - View new media as a tool that can potentially be misused or abused.

  - New media still has its merits and parents take active measures to ensure appropriate use.

- Most parents use a combination of measures to regulate and discipline their children's Internet use. These include:

  - Education & open communication;

  - Reward system;

  - Active control & discipline;

  - Regular checks; and

  - Participation.

Above all, parents regard proper education & guidance as key, especially in the area of pornography.

- Moderate interest levels among the parents towards the Family Access Network (FAN) filtering service – they do see value in it.

  - Especially among parents with young children who are in primary schools and below.

  - Some participants voiced limitations to the filtering tool.

- However, they are divided on their willingness to pay for the FAN service. Those who are not willing to pay $5 per month will not pay for it even if the price is lowered. For those who are willing to pay for it, $5 is acceptable.

  - Some thought that they were currently already being provided the FAN service for free.

- Some argued that the Government should provide this as a public service.

Awareness of new media regulation

What is the general level of awareness and understanding of new media regulation among Singaporeans? This segment sought to measure the general level of awareness Singaporeans had about current new media legislation and asked if they desired any changes to the framework.

- The overall awareness of existing Internet regulations was not high.

  - Illegal downloads was on the top of respondents' minds, particularly among the students.

    » May be related to the fact that it is the main offence they or the people around them commit.

  - Younger students appeared to be less aware of what actually constitutes an offence.

  - High consciousness of legislation against racist remarks across all groups, especially after prompting.

  - Some students though that the watching of pornography was illegal.

  - Regulations around hacking, freeloading, divulging of national security information and gambling were more salient among adults and university students but were relatively low on the awareness scale.

  - There was an awareness of how personal attacks, especially against political figures, may result in lawsuits and defamation cases.

- Most did not feel that existing Internet regulations were too strict since –

  - Overall awareness of specific Internet regulations is not high.

  - Enforcement of Internet regulations was perceived to be lax and reactive.

  - Some feel unsure about where the OB markers were.

  - Some adults felt that as long as activities did not threaten the political status quo, regulation of the Internet would be minimal.

  - Political bloggers felt they have more political freedom online.

- Internet users prefer the middle ground between a pure authoritative regulatory system and a self-regulatory system.

- Recognition of a need to have some level of regulations in place:

- To ensure national security & social and economic stability.

- To protect the young – particularly among the adults.

- Some do not think Singapore society is sufficiently evolved to self-regulate totally.

• Most Internet users were satisfied with the status quo of:

- A few clear restrictions e.g. racism & terrorism.

- A vague set of guidelines where users still enjoy some freedom to push the limits.

• On the other hand, there were a few who felt that there was little need for Internet regulation given that:

- Internet cannot be controlled so why should we try?

- Singaporeans can practise self-control.

- Internet serves as an avenue to release steam.

• Political bloggers, and to a lesser extent, tertiary students tended to be more liberal in their stance towards regulation.

- Most do not have problems with regulating the Internet for the purpose of national security.

- They felt that the area of political freedom of expression should not be regulated.

• While most Internet users were not vehemently against the present 100 websites ban, it was unpopular with most.

- Many think that attempts to block online content are futile.

- Perceived as an act of distrust or that it reflected a lack of confidence from the Government.

- While all political bloggers interviewed recognised Government's intention of signposting, they were divided on its necessity:

  » "I think anything that we do that is too different from what others are doing in the world, puts us in a bad light. It shows how immature we are as a nation, as a people." – Political Blogger.

  » "It is like the Penal Code 377a, why have a law that you cannot enforce?" – Political Blogger.

  » "I fully support the banned websites. I agree with the purpose why it's

there, which is a sign post that this is what the government suppose to be representative of our society does not agree with." – Political Blogger.

Content regulation

- Most Internet users agreed on the prohibition of:

    - Exploitative or paedophiliac material.

    - Material that is detrimental to Singapore's social and political wellbeing.

    - Exception: Several political bloggers who argued for total freedom of speech and for no restrictions on content.

- Some felt that depiction of homosexuality and pornography should be deregulated in order to cater for personal preferences

    - Others still felt that there was a need to prohibit these for the sake of the young.

- Most did not feel the political discussion and commentary should be disallowed as some said that online was the only true avenue for a real political voice.

ANNEX D: FEEDBACK RECEIVED DURING ENGAGEMENT EXERCISE

(I) Statistics

• Direct Responses[183]

Responses from groups and organisations	8
Total emails received	65
Total SMSes received	22

• Forums and Blogs[184]

Number of consolidated views on all forums	7,620
Number of consolidated posts on all forums	185
Number of comments on AIMS Blog	7

• Offline Channels

The mainstream media carried 29 articles and commentaries on AIMS' recommendations over the six-week engagement exercise.

• Other Online Channels

Feedback was also collected from comments made during a discussion session held with RazorTV. (http://blog.aims.org.sg/post/2008/09/03/On-TV!.aspx)

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183 As of 21 Oct 2008.

184 AIMS considered posts and comments made on the following sites:

- AIMS Blog (http://blog.aims.org.sg)
- AIMS Forum (http://forum.aims.org.sg)
- AIMS thread on HardwareZone Forum (http://forums.hardwarezone.com.sg/showthread.php?t=2077928)
- REACH Forum (REACH has closed and removed the discussion threads.)
- http://www.bob.com.sg/forum/showthread.php?t=53406&highlight=AIMS

(II) Stakeholders Consulted during Engagement Exercise

Ms Amy Ang
Lawyer

Mdm Norizan Syed Ahamed
Teacher,
East Spring Primary School

Mr Syamsul Anwar
Teacher,
Bukit View Secondary School

Dr Carol Balhetchet
Member,
Programme Advisory Committee
for English Programmes

Ms Lorinda Carson
Parent of primary school-going
children

Mr Chan Soo Sen
MP for Joo Chiat

Mr Vijay Chandran
Chairman,
Films Consultative Panel

Ms Angeline Chia
Teacher,
Bedok Green Primary School

Mdm Chin Wai Leng
Teacher,
Junyuan Secondary School

Dr Fatimah Binte Abdul Lateef
MP for Marine Parade GRC

Mr Nazaruddin B Isnin
Teacher,
South View Secondary School

Mr Lau Chee Keen
Teacher,
ACS (Barker Rd)

Mr Lee Heng Wing
Director,
Non-profit organisation

Anna M. Leong
Member,
Films Consultative Panel

Mr David Lim
Teacher,
Bedok Green Secondary School

Mr Felix Lim
Parent of primary school-going
children

Prof Lim Yee Fen
Visiting Professor,
NUS Faculty of Law

Ms Elaine Loh
Parent of secondary school-going
child

Ms Penny Low
MP for Pasir Ris-Punggol GRC

Mr Gopinath Menon
Parent of secondary school-going
child

Mr Zaqy Mohamad
MP for Hong Kah GRC

Ms Irene Ng Phek Hoong
MP for Tampines GRC

Mr Nick Ng
Teacher,
Nanyang Girls High

Dr Ong Seh Hong
MP for Marine Parade GRC

Mr Eric Schwartzman
Founder,
iPressroom
Executive Producer, On the
Record…Online

Mr Bernard Sit
Parent of secondary school-going
child

Mr James Suresh
Member,
Programmes Advisory Committee
for English Programmes

Dr Teo Ho Pin
MP for Bukit Panjang

Ms Stella Wong
Teacher,
Woodgrove Primary

Mr John Wu
Teacher,
ACS (Barker Rd)

(III) Representative Sample of all Direct Responses Received during Engagement Exercise

To see all the feedback received, please visit http://www.aims.org.sg/library/docs/AIMSReport-AllResponses.pdf

• Responses from Groups and Organisations

3 September 2008

By Bernard Leong, Benjamin Cheah, Choo Zheng Xi, Gerald Giam, Justin Zhuang, Martyn See, Ng E-Jay, Scott Teng, Roderick Chia, Alex Au.

AIMS' proposals are progressive but can be improved

1.　　The Advisory Council on the Impact of New Media on Society (AIMS) released its public consultation paper last Friday, 29 August 2008.

2.　　In April, a group of 13 bloggers submitted proposals for the deregulation of the Internet to the Minister for Information, Communication and the Arts. It can be found at http://www.yawningbread.org/ybsamplerfiles/bloggerssub.pdf. AIMS has put on the table some good, forward-looking options that move in the directions proposed by us. AIMS' analysis of the state of the technology and its impact on the relevance of the existing regulatory assumptions were particularly lucid.

3.　　However, the consultation paper is silent on two aspects which we consider fundamental, and which we had discussed at length in our

April proposals:

(a) Principles. There is a lack of principled recognition of the value of the free flow of information as a critical enabling feature of a mature and robust democratic process. The paper advises against the government regulating what is "unregulable" given the borderless nature of the Internet (paragraphs 1.09 and 1.10). This is merely a concession to a practical impossibility, not an articulation of the value of free expression. Articulating so would serve well as a guide for future amendments to legislation.

(b) Process. There was no discussion on the process of regulation. There seems to have been an assumption that the various overlapping mechanisms – of bureaucratic regulation by the Media Development Authority, the Board of Film Censors, and occasionally through prosecution – would continue, with proposals for even more panels, such as one for assessing political films (paragraph 4.57 of AIMS' paper). In contrast, in our April submission, we had called for a pruning of the processes, with particular emphasis on removing administrative discretion, including the power to impose fines. We had found the reliance on administrative discretion in the existing regulatory system unsatisfactory. We argued that if truly needed, rules should be written as law and violation of such laws be a matter for prosecution in an open court. Transparency of process is important and in this regard, we hope that AIMS will address this issue when they finalise their report.

4. In the areas where AIMS has put forward proposals, we note that it has taken a somewhat cautious and conservative approach. Here are 5 areas in which we have specific feedback:

(a) Films Act Section 33. Section 33 of the Films Act should be repealed immediately and unconditionally. AIMS' consultation paper suggested repealing it in phases. This is unnecessarily conservative.

The paper outlined 3 ways forward (paragraph 2.31). The first – classification of political films – is absurd because voters are at least 21 years old anyway, and such a proposal calls for even more bureaucracy. In any case, as AIMS' paper pointed out, the technology is already such that if anyone wishes to circumvent the rules by putting it up on the Internet, there is no practical way to stop him. The second – notification and right of reply – is also meaningless in practical terms. The third – blackout during parliamentary elections – is the most realistic of the three. Yet it still has definitional problems. What is a "party political film"? How new is "new"?

The basic problem is AIMS' uncritical adoption of the idea that

"misleading" films may cause havoc (paragraph 2.35) and that there is a way for gatekeepers to determine the "truth". Yet, politically slanted videos are an integral part of the democratic process and exposure to such material helps the electorate to exercise and strengthen their faculties of political discernment.

Furthermore, as the paper pointed out, "the incumbent political party may be said to have prior knowledge of when a General Election would be called, and may release party political films just before elections are called" (paragraph 4.73). Thus, a blackout period, far from assuring neutrality, in effect introduces a bias.

Given these problems, we call for an unconditional repeal of Section 33 of the Films Act, with at most the stipulation that all election advertising that promotes or opposes a candidate should include the name and address of persons sponsoring such advertisements, as in the case of Australia and Canada (paragraphs 4.38 and 4.40).

(b)   Films Act Section 35. Section 35 of the Films Act should also be repealed. This section empowers the Minister to ban any film at his discretion. For example, Martyn See's video documentary Zahari's 17 years (mentioned in paragraph 4.45) was not banned under Section 33, but under Section 35, yet AIMS' consultation paper does not propose the repeal of Section 35.

(c)   Parliamentary Elections Act and Regulations. We agree with the suggestion to broaden the positive list for election advertising (paragraph 4.79) with respect to Internet activities of political parties and candidates during an election. However, it is worth asking if, with the broadening, it is even necessary anymore to have a positive list. We think it better if it is removed altogether.

Malaysia had a general election in March 2008 without regulations circumscribing election advertising on the Internet, and by all accounts from the people (apart from the government that saw losses) nobody thinks the election was less democratic for it.

A number of Malaysian candidates raised money through Internet appeals. Allowing online fundraising is a point that we feel AIMS' paper should have addressed even as it recommended that political parties should be allowed to use social networks (Web 2.0) in their election advertising.

(d)   Class Licence Scheme. The consultation paper "recommends the removal of the registration requirement for individuals and bodies of persons who provide any programme, for the propagation, promotion or discussion of political or religious issues relating to Singapore through the Internet websites" (paragraph 4.81) as

adequate legislation is in place to deal with potential threats to our society. We support this proposal.

However, there is room to take AIMS' proposal further. The entire Class Licensing Scheme should be dismantled. The Class Licensing Scheme is distinct from the registration requirement, in that it treats all Internet sites as automatically licensed even if owners are not called on to register. As automatically licensed sites, the Media Development Authority (MDA) treats them as coming within the scope of the Internet Code of Practice, and sees itself as having the power to impose fines on any website owner for violating its Code of Practice. It is this kind of regulation through administrative discretion that we have argued against, for it is characterised by an opacity of process, and the free hand given by the MDA to itself to write and interpret the Code of Practice. As the AIMS' paper says, there is already adequate legislation in place, whether to deal with child pornography or racial and religious hate-mongering, so there is no remaining rationale for resorting to an automatic class licence scheme administered by the MDA. The continuance of such a scheme, with its inherent lack of certainty in interpretation and limited avenues for recourse promotes self-censorship, which is the antithesis of the engagement and active participation that the consultation paper calls for, where "processes are more transparent, eliciting the trust of its citizens" (paragraph 3.41).

(e) Symbolic ban on 100 sites. We agree with the proposal to abandon the symbolic ban (mostly for pornographic content) on 100 websites. The consultation paper had argued – and we agree with its analysis – that "the existence of the ban may give parents a false sense of security when the reality is that the 100 websites are merely symbolic. Furthermore, the symbolic value of these 100 websites diminishes with the continued proliferation of websites with undesirable content, and the increasing use of alternative methodologies like file-sharing networks" (paragraph 5.90).

5. Overall, we find AIMS' proposals progressive. In the areas discussed above, we urge AIMS to incorporate our feedback when they finalise their report, and we hope that the government adopts all the proposals so presented.

Our Response to AIMS Consultation Paper

As concerned individuals, we support the AIMS recommendations on social media engagement, which we believe takes a positive step towards responsible governance and participatory citizenship in Singapore. Here are some of our thoughts on the report and the website for the committee's consideration:

1.   **E-engagement by the Government is Timely**

There are many Singaporeans and Residents who wish to see if they can play a more proactive and constructive role in developing, shaping and influencing public policies. These individuals hail from different professions across the private, people and public sectors, and may include employees in government agencies who are not working in the Corporate Communications capacity. This response paper will present views and recommendations of Government employees, Internet Researchers, as well as Information Architects / Designers, all of whom are actively engaged in the use of social media. In the larger context, this presentation serves as a new form of dialogue made possible by the new media policies currently being explored by AIMS.

2.   **Obstacles within Government Communication Policy**

Government employees may wish to voice their personal views on public policies, but are occasionally restrained by the current "Instruction Manual" on public communications. These invaluable personal perspectives would sometimes be more pragmatic than official corporate sentiments; even views contrary to the positions of specific government departments may create a positive and balanced overall effect on policy making. It also has the advantage of gaining an "outsider" (i.e. not within the same Ministry or Statutory Board) perspective, which helps to reduce groupthink and tunnel vision.

a.   An important point to note about government e-engagement is to ensure that there is sufficient bandwidth amongst government Corporate Communication officers (or similar function) to carry out this task. Almost anyone can blog today, from citizens to civil servants, and it may not be feasible or productive to respond to all of them. A streamlined response procedure would be required, so that incumbent agencies can respond in a timely and appropriate manner. Perhaps an 80/20 rule could be developed within each government agency such that responses would only be provided in social media platforms (blogs, forums, social networking sites) with a certain critical number of readers.

b.   Re-think the idea of "Corporate Communications" and who can do so, on behalf of the organization. One possible approach is for the Corporate Communications Department to play a role in training and guiding government employees to leverage on social media communications without compromising on the organisation's interest.

c.   It would also be useful to consider revising current policies on official communications by government employees such that more of them can engage the public actively in their official or personal

capacities. As public officers, they could be entrusted to be the counterbalancing "voice of reason" in the blogosphere without going into histrionics. An example of a government employee speaking in non-official capacity would include a blog discussion about scholarships, published at http://tribolum.com/archives/2008/09/bond-free.php

d. Develop formal and informal channels of public communications. It is often the case that the public is disgruntled not over a failure in public policies but a failure in public communications. Instead of having just a few official feedback channels like REACH, individual government websites could have a feature actively soliciting feedback from policies, programmes or campaigns before they are rolled out.

e. A concerted effort on the part of all Government agencies is required to provide responses which are not only courteous and tactful, but genuine, honest and sincere. Some form of training in consistent messaging (the substance and not the form) may be required across the whole of government. The public will be particularly sensitive when initially opening themselves up to the Government. They may not want to provide more feedback if they felt that their views were slighted and not respectfully considered the first time around. This happens when officers give a 'template' reply and no action is taken thereafter, as sometimes perceived by the grassroots.

f. Corporate communications departments in the Government tend to place a much higher priority on traditional media communications. Thus, much more time is spent cultivating relationships with journalists and issuing formal press releases while relatively little attention is given to online channels where there can be influential bloggers and forum posters. Given the conversational nature of new/social media, youths tend to spend more time online rather than reading the newspapers. See PEW Internet Report on teens and social media use at http://www.pewinternet.org/pdfs/PIP_Teens_Social_Media_Final.pdf. Thus, neglecting new media possibilities in official communications may shut out the next generation of Singaporeans.

g. As our government becomes more media-oriented and savvy, we could learn from the holistic practices engaged in the media industry. Media agency MindShare disbanded its digital unit in order to blend its interactive services with all parts of the company (Apr 17th, 2008). In a larger case study, BBC committed major structural changes to its organisation between 2001 and 2006 (see Figure 1 below). Their organisational structure was simplified, largely because recreating new departments would just create more

unnecessary chaos and complexity. In 2006, the BBC underwent a radical restructuring of their organization where BBC director general Mark Thompson once described the term 'new media' as an anachronism, saying that "much of what we call 'new media' is really present media and it belongs in the main content divisions alongside linear TV and radio". It wouldn't be incorrect to assume that the same approach that works for social media adoption at BBC, whatever the future holds, could apply here in Singapore.
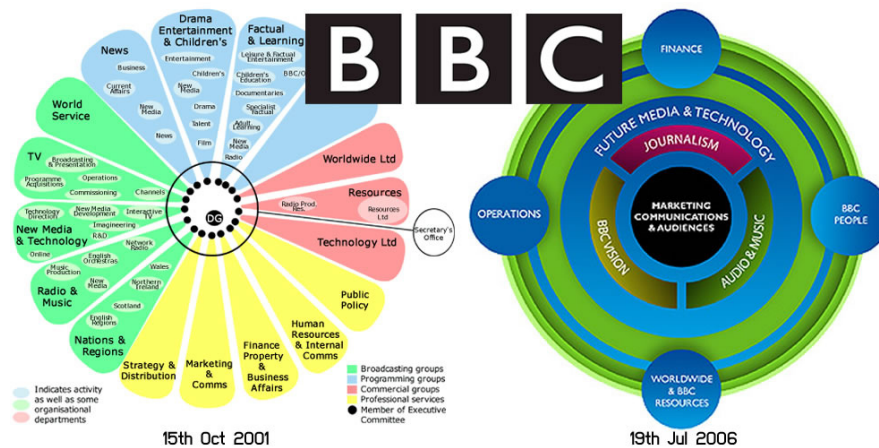

Figure 1. BBC restructing for "New Media" engagement. Chart remixed by Kevin Lim (April 2008) at http://theory.isthereason.com/?p=2187

3.   **Overcoming the Government / Citizen Dichotomy**

One major issue in e-engagement is the overcoming of the "anti-government posture" that has been adopted by most citizens. One explanation for this offered by Arun Mahiznan from IPS is that such efforts have become "propaganda" not intentionally propagated by the government, but by the grassroots itself. This has been largely fueled by well-publicised cases involving political media such as Chee Soon Juan's activism, firing of TODAY columnist mrbrown, and various street assemblies. Most citizens would have chosen to remain silent, even if they hold valid views on government policies. In essence, we are living the aphorism of "the nail that sticks out the most get hit on the head first".

4.   **Consequence: "Fear" as a citizen's reflex for being apolitical**

Even though Singapore's political space appears to be liberalizing both in both online and offline media (though traditional mass media is still more restrictive), the current generation will have a difficult time transitioning into constructive dialogue with the government. Where the government asks students on their thoughts, the general line would be "It doesn't concern me". From fear to disaffect, this current generation now refuses to partake in the socio-political process. See "TODAYonline: Reach-ing Out to Gen Y" at http://www.todayonline.com/articles/273833.asp

5.   **Education as Key to Government/Citizen Relationship**

Rather than focus on the dichotomy of social class (i.e. government vs. citizen), the goal should be to highlight fluid bi-partisan co-operations. In order to encourage responsible citizenry, the government has to visibly demonstrate their ability to listen and act on viable grassroots suggestions.

a.   To balance media reports of citizen engagement in politics, use vicarious examples of -- positive reinforcement -- to overcome the strong reflex to be negative against the government. For example: Highlight citizen feedback & govt response, viable blogs posts / comments, updates on govt presence on public sites such as Facebook, Hardwarezone. In the case of Yesterday.sg established by the National Heritage Board, inputs from a group of citizen volunteers called the Friends of Yesterday were constantly sought in efforts to improve the heritage and nostalgia blog.

b.   Implement public education programmes on constructive ways to -- provide and receive -- criticism and feedback. Schools should have mandatory programmes for students. Public programmes for adults could be provided through the Community Clubs, public libraries and related VWOs and NGOs.

c.   Empower and educate civil servants and citizens on the ability to discern between fact and fiction. The viral quality of messages through new media can mislead (e.g. South Korea's infodemics). Establish an -- official government blog -- to authenticate responses / alerts to citizen concerns.

d.   While liberalizing the Internet media arguably allows for greater democracy, there is the inherent -- danger of under-regulation -- in terms of civil protections (see figure 2 below). For instance, online lynch mobs have emerged in larger connected nations such as China and Japan, practicing the use of anonymity to reprehensible ends. Such cases have been reported widely, as seen in The yellow, violent mob culture of a Chinese BBS, CNN: From flash mob to lynch mob and Anti-Tibetan attacks on Chinese student: Grace

Wang. Where the incumbent government struggles to remedy these social ills, we have the unique opportunity to prevent such phenomena from happening, by educating citizens in the literacy of Internet culture. For a start, we could show citizens how to spot and prevent cases of cyberbullying, fraud, and identity theft. Great campaigns can be seen at the National Crime Prevention Council (U.S.): http://www.ncpc.org
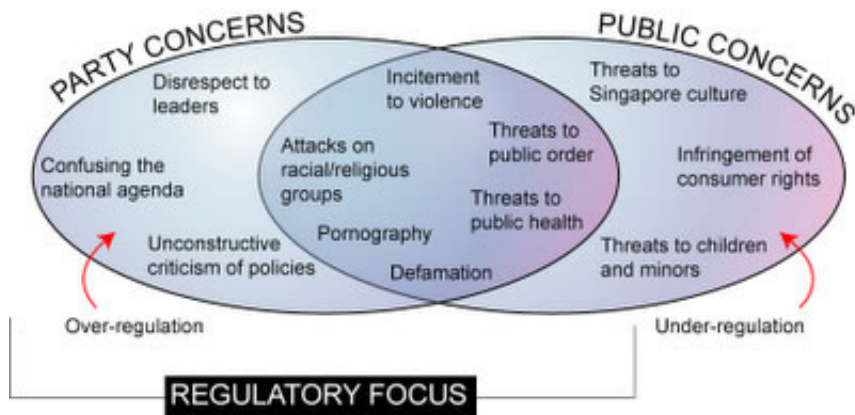

Figure 2. Over & Under-Regulation Venn diagram by Cherian George (2007). As seen at http://singaporemedia.blogspot.com/2007/03/one-country-two-systems-for-how-long. html

6.   **Engaging through Existing Community Platforms**

Where possible, the government should try to use existing available social media platforms, rather than utilise tax payer's money in developing more proprietary platforms. Instead of building new communities on new web sites, use pre-existing ones such as on social networks like Facebook, Twitter, etc. This consequently provides a more informal, transparent, level-playing field for grassroots dialogue. Positive examples of online government projects that reflect the above-mentioned qualities include:

a.   Singapore Police Force (SPF) in the HardWareZone forum to discuss crime prevention.

b.   Govt's REACH Facebook Group to gather feedback from the existing Singapore community.

   c.   Singapore-related Wikipedia entries by various govt and grassroots agencies.

7. **Proactive Feedback Approach**

The AIMS committee should be seen to be reaching out proactively and engaging blogging and online communities to seek their feedback. This will mean getting down and dirty (street evangelism as opposed to preaching from a pulpit). Just a mainstream media coverage alone may not give it quality feedback (many online folks don't read the papers).

8. **Appoint Internet-Literate Ambassadors (e.g. Online NMPs)**

Encourage individuals (e.g. youths) to speak freely and accurately (bi-partisan) about the logic of both government and citizens in the new media space, and be acknowledged by both sides. These "bridge-makers" must be passionate and familiar with both the government's public policies, as well as the perspectives of the citizens. A good place to start is to look at senior public officers who are already actively blogging.

9. **Benchmarking Singapore's Regulatory Practices**

If the Singapore government can jointly develop such an e-engagement policy with Singaporeans, it would put Singapore on the map as one of the more progressive countries in Asia when it comes to citizen engagement and liberalisation of media. As it currently stands, Singapore's Internet Regulation policies are one of the least restrictive, especially in the South-East Asian region. The government could publicize relevant, external academic research such as the OpenNet Initiative: http://www.opennet.net/studies/singapore
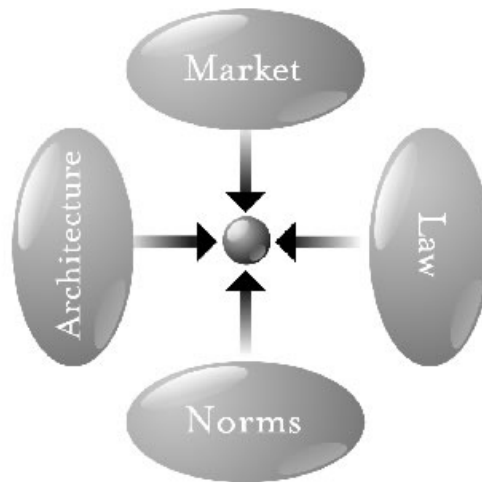
Figure 3. The Pathetic Dot model (for understanding Internet Regulation). As seen in Lawrence Lessig's book, Code and Other Laws of Cyberspace (1999)

10.   **How Regulation Works: Working Models / Frameworks**

Suggest using frameworks such as Lawrence Lessig's Pathetic Dot model (see Figure 3) to illustrate emphasis on different areas to regulating Internet space: Market, Law, Architecture, Norms. Since the NDR speech, legal aspects (Law) of Internet regulation has been downplayed, yet cultural (Norms) possibly remains as apathetic. By designing (Architecture) engagement spaces to be user-centric (allowing users to moderate one another), govt would not have to be the single gatekeeper, but rather rely on the collective population to help regulate one another. The Singapore socio-political blogosphere refers to this as "community moderation"

Feedback about the AIMS Webpage

1.   The design of the AIMS website leaves room for improvement. There is an extensive use of Flash which doesn't serve a purpose in terms of design and web standards. The home page too visually cluttered and the use of Flash for a tag cloud just doesn't work - it should be in HTML instead. Suggest simply using the blog as the home page, since that's where the latest news would be published.

2.   Do demonstrate the use of Web 2.0 technology, such as RSS, trackbacks, links and widgets, so that AIMS would fulfill its goal of integrating and engaging through the existing social media ecology.

3.   Web design is not web standards compliant, which means information published isn't easily shared or resusable by other web services. Perhaps consult web standards user groups such as http://websg.org and http://www.webstandards.org

This document was produced on 16 September 2008, as a collective effort by academics and government employees (in no particular order):

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![SingTel logo]

SINGAPORE TELECOMMUNICATIONS LIMITED

**RESPONSE TO A CONSULTATION PAPER BY THE ADVISORY COUNCIL
ON THE IMPACT OF NEW MEDIA ON SOCIETY:
ENGAGING NEW MEDIA: CHALLENGING OLD ASSUMPTIONS**

1.   INTRODUCTION

1.1.   Singapore Telecommunications Limited (**SingTel**) refers to the consultation paper issued by the Advisory Council on the Impact of New Media on Society (**AIMS**) on Engaging New Media: Challenging old Assumptions (**Consultation**) dated 29 August 2008.

1.2.   The SingTel group has a comprehensive portfolio of services that includes voice and data services over fixed and wireless platforms. SingTel is a leading provider of telecommunications services including satellite uplink/ downlink services, microwave services, mobile services over 2G and 3G, high speed data access through GPRS and HSDPA, as well as wireless services on our WiFi platforms.

1.3.   Companies in the SingTel group are also licensed to provide the following services:

(a)   <u>Internet services</u> – SingNet Pte Ltd (**SingNet**) is a leading Internet Service Provider (**ISP**) in Singapore and has been at the forefront of internet innovation since 1994, being the first ISP to launch broadband services in Singapore.

(b)   <u>IPTV services</u> – The MDA has granted SingNet a nationwide subscription television licence to offer IPTV services.

1.4   SingTel welcomes the opportunity to make a submission on the Consultation; in particular, SingTel notes with interest the recommendations by AIMS in relation to the topic of Protection of Minors and Intermediary Immunity for Online

Singapore Telecommunications Limited (199201624D)

SingTel

Defamation and will focus its comments on these aspects of the Consultation Paper.

1.5   SingTel's submission is structured in the following way:

(a)   General Comments;

(b)   Specific Comments on Protection of Minors; and

(c)   Specific Comments on Intermediary Immunity for Online Defamation

2.   GENERAL COMMENTS

2.1   To date, the government has advocated a light-touch regulatory framework in respect to the regulation of the Internet. SingTel strongly believes that this light-touch approach has proven to be successful in promoting the growth of the industry.

2.2   By way of example, the report of the National Internet Advisory Council (**NIAC**) indicated the following:

> *"But it is equally important that where regulations are introduced, they should be pragmatic and implemented with a light touch so as not to stifle the development of new technologies and innovations deployed in the Internet, and to ensure that legitimate businesses have a conducive environment in which to grow and flourish"[1]*

2.3   SingTel has previously participated in efforts to guard against undesirable content:

(a)   As a member of the NIAC, SingTel engaged in discussions on this matter and provided its views to the NIAC.

(b)   In 2006, with other mobile operators, SingTel's subsidiary, Singapore Telecom Mobile Pte Ltd (**SingTel Mobile**) established a Voluntary Code for Self-Regulation of Mobile Content in Singapore (**Mobile Content Code**), to assure the public of their commitment and support for protecting

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[1] Report of the National Internet Advisory Committee 2006, paragraph 6, page 3

Singapore Telecommunications Limited (199201624D)

SingTel

                  minors from accessing undesirable content on the Internet via mobile handsets.

(c)   SingTel's subsidiary, SingNet, provides a filtering service "SingNet Enhanced Filtering Service" at a very affordable S$3 per month. The other major Internet Access Providers (**ISPs**) also offer filtering options to their end-users. These services have been available for several years; SingNet's service, for example, teaches end-users how to protect themselves whilst accessing the Internet and also encourages end-users to report undesirable websites.

(d)   As a nationwide subscription television licensee, SingNet also adheres to the programming guidelines imposed by the Media Development Authority of Singapore (**MDA**). Further, SingTel supports the regulatory approach adopted by the MDA through the Broadcasting (Class Licence) Notification which imposes requirements on all class licensees.

2.4   However, regulatory and industry efforts are only one prong of what must be a multi-pronged approach. In guarding against undesirable content, telecommunications operators such as SingTel must ensure that their operations remain efficient and cost effective.

3.   SPECIFIC COMMENTS ON PROTECTION OF MINORS

3.1   SingTel provides the following specific comments on AIMS recommendations in the Consultation Paper:

3.2   AIMS has recommended the following:

(a)   Focus on education;

(b)   Increase utilisation of filtering resources;

(c)   Develop research capabilities;

(d)   Collaboration with overseas counterparts;

(e)   Encourage a spirit of volunteerism;

(f)   Establish a dedicated coordinating agency for the protection of minors;

(g)   Annual fund for protection of minors; and

(h)   Lift ban on 100 websites.

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Public Education

3.3   SingTel has often advocated that public education should be the primary tool for the protection of minors.

3.4   SingTel notes that the NIAC also recognised the importance of education, concluding that

> *"In particular, the role of public education and the promotion of the Cyber Wellness values will become more important in helping our citizens to ride the next media wave as innovative, discerning and responsible Netizens"[2]*

3.5   Accordingly, SingTel supports the AIMS recommendation that the bulk of resources and attention should be on education, eg the development of educational courses and materials for minors and for parents, guardians and educators.

Filtering

3.6   Filtering services have been made available to the public for quite some time. SingNet offers its filtering service "SingNet Enhanced Filtering Service" at a very affordable S$3 per month. The SingNet service includes features that:

- allow parents to closely and specifically control what their children can access through the Internet;

- allow parents to define the filtering rules;

- deny or allow up to 10 known sites; and

- track usage.

3.4   Other ISPs also offer similar filtering services and at affordable rates[3].

3.5   SingNet also encourages its end-users to report undesirable sites, which SingNet will then review and block if the site is found to contain undesirable content.

3.7   As such, SingTel believes that there is no need for any further intervention in relation to the provision of filtering tools and services. There are appropriate and adequate tools and measures in place and that are readily available to end-users at very affordable rates.

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[2] Report of the National Internet Advisory Committee 2006, paragraph 28, page 10.

[3] See StarHub's service 'safesurf'

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SingTel

3.7   SingTel also notes with interest that AIMS appears to limit the type of filtering services that should be promoted to those offered by ISPs alone. SingTel is aware that end-users who do not take-up the ISPs filtering services are able to use commercially available client-based software, eg Net Nanny. These types of software are specifically developed by companies for the sole purpose of filtering undesirable content and come with inbuilt features that update the end-user's software with latest list of sites to be filtered-out. As such, SingTel believes that the incidence of use of filtering services may in fact be higher than expected.

3.8   Notwithstanding the above, SingTel notes the AIMs recommendation to make the current optional filtering services more accessible to households, with government funding. SingTel generally supports an overall approach that generates greater public awareness and increases take-up of the filtering services already available from ISPs and others. Further, SingTel would welcome any proposal by the government to provide funding to the ISPs in relation to the provision filtering services.

Develop research capabilities, collaboration with overseas counterparts, spirit of volunteerism, dedicated coordinating agency

3.9   SingTel supports the AIMS recommendation in relation to the above.

Annual Fund for protection of minors

3.10   SingTel generally supports the AIMS recommendation that the government establish a fund to finance all the activities listed above, including offering filtering option free to all households that need it.

3.11   However, as AIMS has provided no further details on the co-funding by government and the private sector, SingTel will await the details before providing comment on this.

Removal of the ban on 100 websites

3.12   SingTel supports AIMS recommendation to remove the 'symbolic' ban on the 100 websites once all the activities listed above have been implemented.   As SingTel has previously pointed out, this is in line with a light-handed regulatory approach.

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SingTel

4.   SPECIFIC COMMENTS ON INTERMEDIARY IMMUNITY FOR ONLINE DEFAMATION

5.1   AIMS has recommended that legislation be enacted to confer limited immunity upon online content intermediaries and that the immunity should be subject to the obligation of the intermediaries to take-down defamatory content. Further, network service providers or carriers will continue to be conferred immunity from civil and criminal liability in respect of third party material to which they provide access.

5.2   SingTel supports the recommendations.

5.3   First, SingTel believes that where a party merely provides or operates facilities for access, eg operate a telecommunications or internet access network over which possible or potential defamatory content may be carried, these parties are merely carriage providers, ie they operate the network resource and do not have any active role to play in the actual defamatory action per se. Telecommunications operators and ISPs fall into this category and should therefore continue to have immunity in the way described by AIMs

5.4   Conferring some form of limited immunity on content intermediaries would appear to provide some comfort to these intermediaries. As AIMS has noted, most intermediaries now prefer to err on the side of caution and refuse to carry content or in some cases, intermediaries turn a blind eye instead of moderating content. Giving some level of limited immunity will encourage these intermediaries to moderate and monitor.

5.5   AIMS has recommended that this approach comes with the requirement that intermediaries would be obliged to take down defamatory content on receiving a credible and authenticated request from the person allegedly defamed. SingTel feels that more details on this obligation is required in order to assess the practicality and to propose how it could be (if at all) be implemented. For example, it would be necessary to assess what is 'credible' and 'authenticated' and it is necessary to also address instances where the originator of the allegedly defamatory content produces proof to counter the person who provides the 'credible' and 'authenticated' request.

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STARHUB LTD'S COMMENTS ON THE AIMS' PUBLIC CONSULTATION PAPER

"ENGAGING NEW MEDIA CHALLENGING OLD ASSUMPTIONS"

10 October 2008

Introduction

StarHub Ltd ("StarHub") is grateful for the opportunity to comment on the Consultation Paper "Engaging New Media – Challenging Old Assumptions", issued by the AIMS Committee on 29th August 2008. We fully support the idea of regularly reviewing the framework for media regulation, to ensure that it is still relevant to society, technology, and Government policy.

A number of the issues in the Consultation Paper (such as E-Engagement and Online Political Content) are not directly relevant to StarHub. However, StarHub does have extensive experience with the issue of protecting minors from objectionable on-line content, and so we are grateful for the opportunity to comment on this issue.

Background

StarHub is Singapore's second largest info-communication company, offering a full range of information, communications and entertainment services. StarHub's subsidiary companies, StarHub Online Pte Ltd and StarHub Internet Pte Ltd, provide a range of broadband, IP and Internet services to customers.

In December 2005, StarHub introduced its Internet filtering service, under the brand-name "SafeSurf". The service was targeted at concerned parents, wanting to protect family members from objectionable online content. SafeSurf blocks access to a pre-set list of objectionable websites, with that list being maintained by StarHub's SafeSurf vendor, "SmartFilter". The service has the functionality to enable the customer to enable and disable the filter as they wish.

In order to encourage take-up of this service, the retail charges for SafeSurf have been deliberately set at a low level. The maximum charge for SafeSurf is currently $2.68 per month, and the service is offered free-of-charge in a number of StarHub's broadband packages.[185] StarHub also allows customers to redeem their StarHub "rewards points" in exchange for this service.

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185 SafeSurf is offered free-of-charge to all StarHub's MaxOnline "Ultimate" and MaxOnline "Premium" customers.

Since the launch of SafeSurf, StarHub has extensively promoted the service via StarHub's website[186] and the brochures distributed in our shops.

Demand for Filtering Services

StarHub agrees with the Consultation Paper that "adoption rates are low" for ISP filtering services in Singapore. Less than 1% of StarHub's broadband customers currently sign-up for our SafeSurf service, and the overwhelming majority of those customers receive the service free-of-charge. However, we do not believe that the low levels of adoption are due to a lack of awareness of the service.

In August 2007, StarHub carried out a market research study, to gain customers' views on filtering products. This study surveyed StarHub and non-StarHub customers, via an external market research company.

When queried on whether the respondent had any Safe Surf Filter Software allowing them to restrict their children's use of the internet, the following responses were received:

Customer Response:	Percentage of Total Respondents	Percentage of StarHub Respondents
"I am not Interested"	8%	8%
"No. I would like to have it, but I am not willing to pay for it"	11%	9%
"No. I would like to have it, and I am willing to pay for it"	3%	3%
"No. I don't need it"	53%	53%
"Yes. It is free third-party software"	6%	8%
"Yes. It is paid third-party software"	5%	6%
"Yes. It is from my internet service provider"	14%	14%
	100%	100%

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186 http://www.starhub.com/portal/site/Online/menuitem.f2b59af84f3db376da055b608324a5a0/? vgnextoid=7b98146a4bfa4110VgnVCM100000464114 acRCRD

As can be seen from these results:

- 25% of the surveyed customers have an internet filter (with approximately 50% of those customers getting their filter from a non-ISP source).

- 53% of surveyed customers said they do not need a filter (with an additional 8% indicating that they were not interested in filters).

- While 14% of surveyed customers indicated an interest in filters, 79% of that group stated that they would not be willing to pay for a filter.

- Only 3% of the surveyed customers indicated an interest in internet filters and a willingness to pay for such a filter.

In considering solutions to protect minors, we believe that it is necessary to take into account the (apparently) low levels of consumer interest in internet filters. As was noted in the National Internet Advisory Committee ("NIAC") Report of 2006, it "remains to be seen whether there is a strong demand for FAN services in Singapore."[187]

StarHub's Comments on AIMS Recommendations

StarHub fully agrees that a long-term and sustainable solution is needed to deal with the issue of protecting minors from objectionable on-line content. StarHub has considered the Consultation Paper's recommendations, and our comments are set out below.

Recommendation 5.77:

"One option could be for the Government to fund the provision of FAN service to households that wish to have it."

StarHub agrees that Government subsidies would be a good way to encourage the use of internet filters by those customers who want filters but are not willing (or are not able) to pay for them. However, StarHub would note two points:

- StarHub's research suggests that those who want filters, but are not willing to pay for them, may be limited to approximately 11% to 9% of the public.

- StarHub offers SafeSurf free-of-charge to a significant proportion of its customer base, and demand for the service is still low (suggesting that price is not the sole determinant of whether people sign up for filters or not).

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187 National Internet Advisory Committee Report 2006, Page 6. FAN ("Family Access Network") is a generic term used by the NIAC to describe internet filtering services.

Nevertheless, if the Government was to announce a campaign of funding internet filters, we believe that this would attract attention to this issue, and would help to encourage the take-up of internet filters.

Recommendation 2.49

"Education...is the best tool for the development of a long-term framework and lays the foundations for a more informed and self-sufficient population."

Recommendation 5.41:

"While filters and laws can be effective in protecting children from harmful online content and contact, education remains the long term answer...Simply relying on technical solutions or legislation would only address short term problems. Filters, restrictive systems and laws are only stopgap solutions."

StarHub agrees that education is the key to protecting minors from objectionable online content and contact.

We believe that a critical Government policy objective should be the equipping of parents and children with the necessary skills and knowledge to react positively and proactively to objectionable content they encounter on the Internet. An important element of this policy would be educating parents on the advantages and disadvantages of internet filters (those provided by the ISPs, as well as those from third parties).

We see that a targeted education policy is likely to be more effective than mandating internet filters for internet (and mobile) services. As has been noted by the NIAC, "the NIAC believes that education (particularly of children and youth) is a more effective long-term solution than the mandatory provisions of filters".[188] We believe that mandating internet filters would be damaging, expensive, and ultimately unsuccessful. The experience of Australia suggests that mandatory filters:

- Can lead to a deterioration in surfing speeds, even for those customers who have de-activated the filtering service;

- Are not a "silver bullet", as they will not block 100% of objectionable content or contact (particularly as the definition of "objectionable" will differ widely from customer-to-customer); and

- Are very expensive to maintain. We believe it would be inappropriate to ask ISPs (and mobile operators) to fund mandated internet filters when customers do not want such services and are not prepared to pay for them.

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188 National Internet Advisory Committee Report 2006, Page 6.

We see that education will be the most effective long-term solution to the problem of objectionable internet content. StarHub therefore fully supports the recommendations of the AIMS Consultation Paper on this issue.

Conclusion

Internet filters (such as StarHub's SafeSurf product), have been in operation since 2005, and are offered by all of the major ISPs. However, take-up of those services remains low, with all the available evidence suggesting that customers: (a) are not currently interested in internet filters; and (b) have little willingness to pay for filters.

StarHub therefore supports the recommendations of the Consultation Paper to: (i) promote education (to raise awareness of, and interest in, internet filters); and (ii) look to having Government-funded filters (to remove a potential barrier to take-up).

StarHub would also highlight that the pace of change in new media is likely to accelerate in the coming years. We appreciate the work of the AIMS Committee, and believe that more of its consultation papers will be needed in the future.

StarHub Ltd

October 2008

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Report of the Ad Hoc Committee to Comment on the AIMS Consultation Paper on "Engaging New Media – Challenging Old Assumptions"

1.   **Introduction**

The Singapore Academy of Law ("SAL") was invited by AIMS to comment on its consultation paper on Engaging New Media – Challenging Old Assumptions ("Consultation Paper"). SAL thanks AIMS for this opportunity to give our views.

An ad hoc committee ("Committee") was formed comprising two members from the LawNet Management Committee and two members from the Law Reform Committee of SAL with secretariat services provided by SAL. The Committee members are:

Cavinder Bull, S. C. (Chairperson)
Joyce Tan
Yong Zee Kin
Lim Seng Siew
Tan Pin Pin (Secretary)

The Committee considered the issues within the short time frame it had. The views of the Committee are set out below.

2.   **Views on E-engagement**

The study of e-engagement must be premised on the assumption that Government's underlying purpose and desire to engage is itself clear, so that the deployment of technology (all means of it), is to be regarded as enabling the fulfillment of that purpose and desire. In this vein, it follows that new media platforms (along with other traditional platforms) which citizens use to communicate with each other, merely present further opportunities for Government to express its given agenda of engagement.

Noting AIMS' definition that e-engagement is to facilitate "a real human conversation" and encourage a "plurality of conversations" (the merits of which are clear), it is important to ask what role the Government wants to play in participating or joining in such conversations. Bearing in mind that the Government is itself no ordinary citizen, its ability to fully participate in such conversations (short of receiving feedback and asking questions) may be naturally restricted in certain circumstances. Blogs and online forums are not easy places for the Government to engage with netizens, who may enjoy the freedom of virtual identities and online anonymity, not equally available to the Government, and which can unleash an anti-establishment tone of discussion.

While this challenge relates to the substantive issue of engagement, rather than one posed specifically by new media *per se*, it is important to note that netizens and the online world represent a whole different and evolving world, where 'old-world' thinking and language can be marginalised and irrelevant. For example, the requirement in many Government websites to register before comments can be posted may discourage the posting of honest comments altogether, in the online world.

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The Committee therefore considers it essential that for the Government to remain engaged and in touch with its governed, it needs to work on building *internal* capacity to understand, speak the language of and think in terms of this new and evolving world. In this regard, a separate consultative body of such netizens who may remain an outside group would be insufficient as it would not be imbibed with the concomitant Government thinking. To facilitate the discharge of Government function within the universe of new media, Government must not view it as a foreign language that requires translators. Instead, it must bring such new media into its own realm, including by ensuring that its officers themselves belong to that universe of new media. No doubt this may be happening already in some parts of Government where officers are familiar and comfortable with the tools of new media. This should be further encouraged. Government needs to ensure that it is inherently equipped, as well as if not better than, the netizens in its engagement with them in the e-world.

3.   **Views on On-line Political Content**

3.1   *s.33 of the Films Act*

The Committee's view is that s.33 of the Films Act should be repealed. The Committee finds that the options of a phased approach and narrowing the scope of s.33 would not be meaningful in terms of practical implementation. For example classifying a film as "political" is problematic because it begs the question as to what is "political" in the first place.

Meanwhile, the ease with which user-generated content may be hosted on an overseas server and hence beyond the reach of the Government's ability to compel removal (short of denying access) makes this provision easily circumvented. In supporting its repeal, the Committee does not think that it is necessary or effective to make use of the Parliamentary Elections Act to address any perceived risks for the reasons cited.

Instead, reliance should be placed on substantive legal safeguards which are already in place to protect against extreme scenarios. The Committee is mindful that the Political Donations Act forms a framework to prevent, *inter alia*, external organisations from funding local political parties for ulterior motives. If at all, existing legislation may be reviewed to ensure that such sources of funding for the purpose of destabilising our political scene are sufficiently excluded. Additionally, existing laws, like the Sedition Act and the Racial Harmony Act, will continue to address important issues of inter-racial and inter-religious harmony.

3.2   *Positive List & Class Licence Scheme*

The Committee supports the recommendations that the 'positive list' should be further liberalised and the registration requirements under the Class Licence Scheme removed for those groups identified in the Consultation Paper.

4.   **Views on Protection of Minors**

4.1   *Focus on Education*

Encouraging and engaging parental groupings might be a better and more effective long term strategy than state involvement. The values and the manner in which such

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values are taught to children should be something to be decided by parents. Providing parents with the knowledge and information is probably going to be better than the state engaging the children directly. In that light, a co-ordinating state agency for the protection of minors may not be necessary.

Where the state is involved, schools may help to enhance awareness of these dangers. The Committee suggests the following be incorporated in schools:

- Develop a curriculum for all schools to teach on the dangers of the internet that includes how to identify online grooming, how to look out for victims of this in their peers, etc.
- Establish a counseling service in the schools that minors can approach or turn to for help if they/their friends fall victim to online grooming and other online dangers, or are in fear of these happening.
- Raise greater awareness in schools similar to the way the anti-drug campaigns did.

4.2   *Increase utilisation of filtering resources*

The Committee supports the provision of Government subsidy to ISPs to provide FAN (Family Access Networks) services to its subscribers and on educating parents on their existence and functions.

Instead of expending public funds in developing research capabilities, greater returns may possibly be gleaned by channeling the same amount of public funds towards providing a subsidy to ISPs. This would mean that the general pool of ISP subscribers will not be made to bear the cost of compulsory filtering; and the small pool of concerned and active parents will be able to have access to this technology at an affordable price. It will then be up to the parent to decide how to educate their children and when the FAN service is no longer necessary for their household.

4.3   *Child pornography*

In line with other jurisdictions, the Committee suggests that the Government consider reviewing the Films Act and the Obscene and Undesirable Publications Act where the subject matter relates to pornographic material featuring children. Currently, only the Films Act has a provision which specifically targets the use of minors in the commission of offences relating to obscene films. Additionally, the sufficiency of the punishment provisions for offences involving child pornography should also be reviewed.

5.   **Views on Intermediary Immunity for Online Defamation**

5.1   *Limited immunity for online intermediaries*

To the extent that the development of the online world and the creative activities surrounding it are to be encouraged within Singapore, the Committee considers that facilitators of the online medium ought to be provided with a supportive environment in Singapore for their contributions to such medium. From this perspective, the Committee supports the proposition that online intermediaries be given conditional immunity against certain liabilities. In the absence of such immunity, online content

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intermediaries in Singapore may be discouraged from allowing the public to post comments or they may in the design, restrict permitted activities at its websites or they may simply set up in another jurisdiction where such immunity is available. This could also result in Singapore netizens using foreign websites to post comments and causing Singapore sites to be potentially marginalised.

Existing protection for network service providers reside mainly in the Electronic Transactions Act (ETA) and the Copyright Act (CA). Hence, online content intermediaries hoping for protection from online defamation will have to come within the umbrella of protection provided to network service providers under the ETA. The ETA does not, however, define the ambit of the term "network service provider". From a plain reading of section 10 ETA, there is ambiguity as to whether online content intermediaries who provide storage of and access to user generated content can come within the meaning of this term. This is particularly since the function of a network service provider under section 10 ETA is envisaged as one who provides access. The natural meaning of "provide access" would not normally include providing online storage: this is further supported by the definition of the phrase "provide access", which definition only extends this natural meaning to "automatic and temporary storage … for the purpose of providing access". The apposite conclusion must be that online content intermediaries do not come within the meaning of the term "network service provider", and hence will not benefit from the protection afforded by the ETA.

Under the CA, the definition of "network service provider" extends to providers of online services and Part IXA, in particular section 193D, contemplates the protection of network service providers from liability arising from storage of infringing material. This protection, unfortunately, does not extend to online defamation.

While the Committee agrees that online content intermediaries should be protected, we do not think that they are in the same position as network service providers. Network service providers, as common carriers, may justifiably be granted full immunity. Online content intermediaries, on the other hand, have a greater degree of control over the content which they provide access to and a business model that depends on user generated content. In this vein, the Committee is of the view that the spectrum of protection afforded to network service providers and online content intermediaries should be reviewed and rationalised. While pure network service providers should be afforded greater protection (and hence a higher level of immunity) by reason of their inability – both at a technical level as well as a practical level – to know and control the network traffic which they handle, the business model of online content intermediaries – being directly related to the volume of user generated content which they provide access to – would require that the balance be struck differently.

As such, the Committee believes that there is merit in online content intermediaries being granted limited immunity based upon the following considerations:

- *Degree of knowledge and control*: We believe that the key touchstones for determining online content intermediary should be the degree of knowledge and control which they exercise over the infringing or offensive user generated content. The exact degree of knowledge that is required will have to be carefully

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considered. While actual knowledge ought to attract liability, policy makers will have to engage stakeholders in order to determine the lower watermark for liability. Similarly, the degree of effective control will have to be articulated in order to establish liability.

- *Good faith and reasonableness*: We are in favour of embedding concepts of good faith and reasonableness in determining liability. Online content intermediary should be required to have acted in good faith and reasonably in order to benefit from the limited immunity.

- *Not limiting to defamation*: If the underlying policy is to encourage the provision of such services from within Singapore, it may be necessary to consider whether the protection should be restricted to defamation.

5.2   *"Put-back" regime*

While the Committee is in favour of safe harbour provisions modeled after Part IXA of the Copyright Act and the Copyright (Network Service Provider) Rules 2005 for online content intermediaries, we do not think that the "put-back" regime mooted for consideration is practicable. The proposed "put-back" regime introduces ambiguity and puts the online content intermediary in the unenviable position of having to make a judgment call when faced with an initial take down notice and a subsequent put-back request. It is preferable that once a take-down notice has been given, the online content intermediary's role should end after the contributor of the user generated content is notified and the content is taken down.

If there is any issue to be resolved between the objector and the content contributor, that issue should be properly resolved elsewhere and not by the online content intermediary.

That resolution can be before a suitable administrative tribunal with rules calibrated for quick disposal of cases which are clear abuses of the take-down process. This will provide contributors of user generated content an avenue to request an independent determination and, if successful, for the content to be 'put-back'. However, caution must be sounded. If the case is not sufficiently clear cut either way, then perhaps the rules should required that the tribunal not make a decision and the parties concerned refer the dispute for resolution before the courts.

Dated: 10th October 2008

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Our Ref: LS/84[PUBCONSULT-GEN]/08/KG
Your Ref:

13 October 2008

Mr Cheong Yip Seng
Chairman
Advisory Council On The Impact of New Media on Society

Dear *Mr Cheong*

ADVISORY COUNCIL ON THE IMPACT OF NEW MEDIA ON SOCIETY - CONSULTATION PAPER

We refer to your letter dated 17 September 2008 and the Advisory Council on the Impact of New Media on Society's (AIMS) Consultation Paper dated 29 August 2008.

The Society's views on the recommendations set out in AIMS's Consultation Paper are as follows --

1. E-engagement

The Society has no comments on this matter.

2. Regulation of online political content
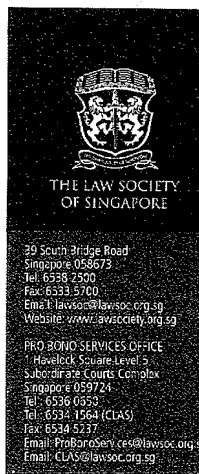
2.1 Section 33 Films Act

The Society agrees with AIMS's recommendation to liberalise section 33 of the Films Act. The Society has considered AIMS 's three options and is of the view that Option 3 - to repeal section 33 in phases - is the most appropriate option.

2.2 Parliamentary Elections (Election Advertising) Regulations

We note that currently there is a 'positive list' of permissible election advertising on the Internet. The Society supports AIMS's recommendation to change the Parliamentary Elections Act to allow more digital content by expanding the positive list for Internet election advertising.

3. Protection of minors

The Society supports AIMS's recommendations on this matter.

.../p.2

The Law Society of Singapore

4.   Intermediary immunity for online defamation

4.1   Immunity under section 10 Singapore Electronic Transactions Act – whether it extends to online content intermediaries

We note that section 10 of the Singapore Electronic Transactions Act (ETA) confers immunity from civil and criminal liability to network service providers in respect of 3rd party material to which they merely provide access. The phrase 'network service providers' is not defined. It appears that the term '*network'* in section 10 ETA may be interpreted to exclude those service providers that do not operate telecommunications or broadcasting networks. Hence, the immunity referred to in section 10 ETA may not be applicable to service providers who provide services such as content hosting or information location tools without operating or providing access to networks. Further, the term, *'to which they merely provide access'* in section 10 ETA does not seem to extend to permanent storage or hosting and location tools.

We note that AIMS has stated in the Consultation Paper that the term *'network service providers'* in section 10 ETA does not include content hosts. If this is the position, the Society agrees with the recommendation of AIMS to enact legislation to confer limited immunity upon online content intermediaries in respect of civil and criminal liability for defamation with regards to third party content where such intermediaries have acted in good faith.

4.2   Proposed legislation to extend immunity to online content intermediaries

a) Scope of the proposed legislation

The Society agrees with AIMS's recommendation that there should be no derogation/dilution of the existing immunity granted to "network service providers" under section 10 ETA and that the proposed regime should not impose any additional liability to the intermediaries beyond the existing law.

b) Class of intermediaries to be protected

In enacting legislation to extend the immunity in section 10 to this group of intermediaries, express references to the functions that these intermediaries carry out may have to be specified. This may pose some challenges to the legislators as the evolution of technology in the internet will make it difficult to identify the language that encompasses all present and future functions that should be included in the definition of intermediaries to be protected under the proposed new legislation.

Even within each category of intermediaries, the relationship over the data that they possess may differ. For example, some host owners own and actively control all data whilst some on the other hand, may only have tenuous connection with the stored connection, taking no part in the selection and design of the materials. AIMS may wish to consider whether immunity should be accorded only to the latter category of content hosts.

The Law Society of Singapore

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c) Scope of immunity

    i) Actual knowledge

        The Society agrees with AIMS's recommendation that the legislative provision should not deprive a content host of immunity merely because he had constructive or imputed knowledge of the third-party defamatory material, provided he has acted in good faith. Content hosts cannot be expected to review and scrutinise every remark posted on the internet and therefore, there should be no liability unless there is actual knowledge of defamatory material. AIMS may wish to consider whether it would be appropriate to require, as an alternative to actual knowledge, special circumstances that give the content hosts reason to be aware of the defamatory material.

        It must be noted that knowledge requirements vary according to the function being performed by the service provider.

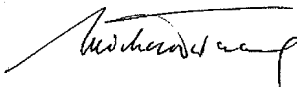   ii) Intermediaries who exercise moderation

        The Society agrees with AIMS recommendation that the proposed legislation should protect intermediaries who exercise some degree of editorial control, instead of penalising them. This will provide an incentive for intermediaries who exercise moderation and remove any defamatory material as they do not lose the immunity by exercising some degree of editorial content.

    iii) 'Notice & take-down and 'put-back' regimes.

        The Society agrees with AIMS recommendation that there be immunity subject to the obligation of intermediaries to take down defamatory content on receiving a credible and authenticated request from person allegedly defamed. The Society also agrees with the recommendation that the legislators consider the introduction of a "put-back regime" based on a counter-notification to protect interests of originators and to prevent abuse of the take-down regime as a means of censoring speech.

Thank you for giving the Society the opportunity to comment on AIMS's Consultation Paper.

Yours faithfully

Michael Hwang SC

President

Intel Corporation response to the

"Engaging New Media" Consultation paper issued by the Advisory Council on the Impact of New Media on Society (AIMS)

October 2008

EXECUTIVE SUMMARY

Intel Corporation commends the Advisory Council on the Impact of New Media on Society (AIMS) for this consultation and for inviting feedback and providing a mechanism for Intel to share its general position on the new digital media sector.

Intel has a long experience in working with the media sector, including rights holders and content owners, device manufactures, Internet Service Providers and technology companies on developing and deploying technologies that enable new digital media business models. The media, communications and ICT industries share the same interest in providing consumers with new, exciting and flexible content experiences. Rapid technological innovation continues to challenge existing business models and paradigms, increasing consumer offerings and the ways consumers enjoy new digital media.

Intel believes that technical innovation, private agreements and market forces, not government mandates (a) drive new, compelling services, consumer offerings and media usage models, (b) protect digital media owner interests, and (c) create an environment of robust technical innovation.

We also believe that Government should view as encouraging the continued adoption of the Digital Right Management (DRM) technologies and Content Protection solutions available today that allow the development of online media services which enable horizontal, interoperable markets for digital goods and services. We also note that there are a number of new initiatives underway to make DRM technologies more consumer-friendly.

Intel also considers that filtering, which should never be imposed by governments as it , is not likely to prevent online piracy because it can be easily circumvented, and can negatively affect consumer rights and privacy.

Private agreements and market forces, as opposed to Government mandates, are the key to innovation and protection of rights of users and owners of media.

Intel considers that private agreements between all the affected stakeholders, and not government regulation, helps foster technical innovation, while promoting the creation of new effective business models and protecting both right holders and consumers interests.

In this context, technology policing mandates imposed by Government are inconsistent with an effective digital market: they stifle innovation, eliminate

real consumer choice and competition, and force all technology and service innovators to assume law enforcement responsibilities on behalf of others.

For its part, Intel has focused substantial technology development and deployment efforts in creating DRMs and Content Protection systems for horizontal interoperable digital markets, goods and services (as opposed to proprietary vertical ones) where device and service interoperability are the very foundation of those technologies. We believe that the use and deployment of those technologies should be encouraged by rights holders, consumers, device makers and service providers.

We do not believe that DRM interoperability should be forced by legislative mandate, but should rather be driven by market forces in response to consumer demand.

Intel has worked the past decade to develop and promote technologies that "extend" the reach of DRMs into the consumer's home using interoperability technologies. Media is being delivered into the consumer's home through a very broad range of mechanisms, including conditional access systems (cable, satellite and broadcast TV), optical media (DVD, BlueRay Disc, etc.) and a wide range of DRMs (proprietary and open like CMLA/DRM).

In that context, Intel has worked with content providers, service providers, and device makers to enable in-home interoperability. For example, Intel has developed and licensed into the horizontal market High-bandwidth Digital Content Protection (HDCP) to protect decompressed content from any source device (set top box, PC, game console, DVD/BlueRay player, Mobile Internet Device, peripheral, etc.) to a digital television. Intel has also worked for many years to make the Open Mobile Alliance DRM 2.0 a standard based alternative to the proprietary solutions available today. These efforts complement other industry initiatives aimed at interoperability, such as the Digital Living Network Alliance.

Rights holders are in the strongest position to demand that all of the DRMs that deliver their content may be output to standards based and horizontal market technologies like CMLA/OMA, DTCP IP, CPRM and HDCP.

Consumers should be free to choose the digital products and services that they need, having the opportunity of comparing the different options offered to them. The implementation of new business models based on different levels of application of DRM requires complete transparency and appropriate information to the consumers in order to avoid disappointments and unmet expectations with respect to access or use of acquired content. Effective markets depend on consumer information, and that is especially true in markets for digital goods and services based on DRMs.

Filtering, which should never be imposed by mandate, is not likely to prevent piracy

As discussed above, Intel does not favour technology mandates. , We recognize,

however, that freedom of contract permits parties to enter into truly private business arrangements that may include a filtering component of some sort. Those who agree to filter do so at their market peril because filtering is not consumer friendly. With respect to private agreements that include some filtering component, we believe, the filtering component must (i) be fully disclosed and agreed to by consumers as part of the service arrangement, (ii) respects consumer privacy and security, and (iii) otherwise conform to consumer protection and other national laws.

One of the biggest challenges associated with the use of any filtering technology is the basic determination that a consumer behavior is unlawful. As a matter of principle and preference, infringement determinations should be left to Courts and not to ISPs or right holders. As a general rule, technology is simply not able to make that determination.

From a technical perspective, Intel does not believe filtering will prevent infringing activity, nor do we believe it will materially impede committed Internet pirates. The same result might be accomplished through other less intrusive means, such as metering user bandwidth consumption and charging for a tiered service or limiting usage thereby without the need for complex privacy and lawfulness considerations.

Filtering technologies can be circumvented by pirates with relative ease. Watermarks can be stripped and digital fingerprints altered through format changes, encryption, and content scrambling techniques. Software devices and altered files can be quickly and easily disseminated over the internet, including peer to peer networks. To be at all effective, the filter will have to be continually updated to include the ever increasing circumvention approaches, in a perpetual cat and mouse game that cannot ever really be won. Even the simplest of encryption defeats network filtering. In fact, a growing number of peer to peer networks are using encryption to protect user privacy and to perhaps even by pass filtering

While we do not encourage network and device level filtering even in voluntary agreements, market forces will determine in truly private agreements the parties perform an arms length "cost-benefit" analysis to determine both the costs and benefits of policing/filtering.

Government mandates, however, throw this entire "cost benefit" analysis out the window, as rights holders will support any and all policing mandates no matter the cost to ISPs or device makers because technology mandates cost rights holders nothing. To be sure, rights holders should be the ones to benefit from filtering, and if so, they should be more than willing to pay for those services in a manner directly related to the positive impact on their business. Governments should therefore leave all filtering decisions to private agreement.

ACTION FOR SAFE WEB REGULATION

To the AIMS Advisory Committee,

Thank you for facilitating the public debate in this area. As a group of bloggers, parents, educators, and professionals we would like to voice our concern and **objection to the recommendation to remove the symbolic ban of 100 websites, and accompanying justification** as expressed in point 2.59 in the paper.

"2.59 AIMS proposes that once the holistic approach suggested above is put in place, the symbolic ban on 100 websites should be lifted. Those who are Net-savvy can already bypass the ban anyway. The existence of the ban may give parents a false sense of security when the reality is that the 100 websites are merely symbolic. Furthermore, the symbolic value of these 100 websites diminishes with the continued proliferation of websites with undesirable content, and the increasing use of alternative methodologies like file-sharing networks instead of simply "websites"."

We support the symbolic ban of 100 websites for the following reasons:
1. We value the symbolic significance of the ban as a marker for societal values.
2. The ban provides a useful anchor for discussion and instruction when engaging minors on the issue of media consumption, habits and societal norms.
3. Banning websites need not be the sole or primary strategy for managing undesirable content but is still a valuable public service.
4. In an age of convenience, constraining accessibliity to objectionable sites is an effective media management strategy.

We recommend the following action:
1. Increasing Government ability to provide a basic level of filtering service in the public interest, which may include expanding the number of morally objectionable sites that can be banned (e.g. extremely racially inflammatory sites, child pornography sites).
2. Enhance efforts by responsive parent and civic groups to bring Internet safety into the awareness and scope of engagement of the general public.

We believe that proper regulation of the Internet must not be abandoned and left entirely to the 'free market'. The current credit crisis is a caution on how a determined policy of non-regulation of the derivatives market has compromised the public good. Similarly, retention of important and basic regulation such as banning of morally objectionable websites is necessary to preserve our nation's social fabric and future.

Sincerely,

The ATRIA Blogger Network and Community
Represented by 135 signatories across 4 key stakeholder groups, 25th Oct 2008

~ ATRIA is an independent and informal focus group of bloggers, parents, educators and general public concerned about informing blogging values and new media parenting and education issues ~

Contact Person:
Paul Khoo

135 Signatories from 4 Representative Groups

1. Concerned bloggers (16)

"If freedom is what we think is at stake, we should simply be focusing on increasing our freedom from all kinds of morally objectionable media. Who in their right mind would object to the dismantling of spam filters? This isn't so different." - Paul Khoo

"If we open the floodgates of evil, there'd be no way to close them back. We are responsible for the well-being of the young. We need to protect them from unnecessary exposure. A corrupted mind is provoked to action. The wrong type." - Lim Sai Luang

"Maintain the symbolic ban." - Lee Siong Lai

"I strongly feel that Singapore's success and worldwide respect has been due to its sound laws and strong government initiatives in keeping the country's values intact. It is essential that our government stays values-oriented and provide the guidance needed for this country. Decisions should be driven by the aim to

ACTION FOR SAFE WEB REGULATION

benefit and protect citizens. I personally feel that the government has been doing a good job. The government has been placed there to protect and look after the well being of their citizens. Steps taken need to be well thought through. I say, stick to what has been tested and proven. This must especially be so when it comes to values-oriented laws. Our country's future is based on the sound judgment and righteousness of our leaders. So to the leaders: Thank you for the guidance provided to date. I pray that you will continue to make the right judgment calls." - Jacyln Chan

Hsien Mei Sharon Mah
Jason Tamara Widjaja
Tien Guan Tay
Joy Lee
Rachel Lee
Jacyln Chan
Paul Khoo
Alex Chew
Nick Pan
Raymond Tan
Looi En-Shan
Teo Lindy
Ariel Zhuang Shuyi
Lim Sai Luang
Lau Gek Lian
Lee Siong Lai

2. Concerned parents (42)
"A good government should set (and withhold) good policies for the world to follow. They should not yield to pressures that promote wrong value systems and erode our good cultures." - Andy Tan

"While it is not possible to regulate the Internet, it is still necessary to impose regulations that protect the young and innocent. It is therefore important that such legislation is kept in place. the crux of the matter here is that safeguards should not be removed since they hurt no one." - Kenneth Lee

"We not only need to keep the symbolic ban on those 100 sites, but also increase the number of sites to be banned - those with objectionable contents like pornography etc." - Heng Weng Lee

"As a parent, I would rather have an extension to more than 100 websites, rather than concern ourselves with which sites to replace - if the quality of the websites is low, just block the site - society must have a role in protecting and setting boundaries, rather than the "free market" of capitalism" - David Tay

"We should retain the current policiy to ban objectional sites." - Soh Siew Kim

"Which decent person would want to have the ban lifted. Perhaps the authorities should ignore such requests and future ones and instead focus on the majoriy of responsible and productive citizens rather than entertain those whose minds are idle and live directionless lives." - Edward Tan

"Very concerned about the moral fabric of future generations." - Kathy Tan

"Some websites are beyond the pale. It is reasonable to block the most offensive and dangerous of these. Such restrictions should be applied only to sites that can be shown to have no redeeming qualities and which are likely to incite hatred, violence; are likely to cause accute offense; or which could disrupt the social harmony of Singapore." - Mark Trudinger

"Please do not remove the ban because it will encourage evil and lawlessness. Freedom is NOT lawlessness! Lawlessness is NOT freedom, but bondage to evil." - Moses Tay

"Let's not hasten the moral degradation of our society. I am especially concern for our younger generation if we totally "liberalized" the Internet." - Wayne Goh

"Our children's future is in our hands. Pls continue to ban these websites. From a Father of young chidren." - Matthew Ng

ACTION FOR SAFE WEB REGULATION

"We need to protect our children from all the filth. Where there is liberalisation in those countries just look at the morality of the children and teenagers going down the drain. Let us have more wisdom and don't follow others blindly. The destiny of our children is in our hands." - John Yip

David Tay
Simon Seow
Andy Tan
Tok Chai Hoon, Jane
Tham Kam Cheong
Heng Wing Lee
Tan Lay Hong Kathy
Seck Guan Pua
Seet Sook Ching
Moses Tay
Peter Lim
Catherine Ow
Laura Lim
Soh Siew Kim
Ronald Cheng
Carolina Ong
Goh Hai Loo
Teck Chen Foo
Mark Trudinger
Edward Tan
Tay Wan Cheng
Yong Shou Ling
Wayne Goh
Ng Hong Eng
Chua Kim Choon
Julian Khoo
Daniel Lo
Tina Chew
Joanna Sia
Kenneth Lee
Matthew Ng
Gan Woon Hee Daniel
Vicki Tan
Maxine Tan
Serene Chan
Lotus Lee
Arthur Yeo
Evonne Sim
Rowena Pang
Lynda Yeo
Joyce Yap
John Yip KS

3. Concerned educators and youth workers (26)
"I fully agree that important and basic regulation to the Internet is absolutely necessary." - Bixia Wang

"The effects of lifting the ban will be tremendous and goes beyond the current generation. Children and youths in this generation already has such watered down moral values. Further exposures to hard core websites will only further degenerate our current generation of people, causing the main fabric of society, the family unit, to further disintegrate. I strongly appeal for a regulatory ban to remain." - Charlotte Chen

"It is tough as it is with all the new problems our Youths are facing. Allowing access to horrible material can only make things worse. Why give ourselves more problems just because of some people wanting access to horrible materials? We need to think about our younger generation. Adults know how to choose, kids do not. Can you imaging your 6 year old looking at pornographic materials? What kind of society are we building?" - Gerry Gan

ACTION FOR SAFE WEB REGULATION

"The power of media, in its accessibility and pervasiveness, magnifies every kind of influence, including adverse ones that inspire copy-cat crimes, or increased tendencies to violence, drugs, child/teenage sex crimes, suicide, even acts of terror. As every user is equally exposed to its darker side, it is fundamentally imperative to have regulations in place. Working parents struggling to find adequate safeguards for their children need help. Responsible governance should include the intentional preservation of sound values as a legacy for future generations. Internet use must not be left entirely to the so-called 'free market' with its evident excesses." - Christina Lim

"Please maintain the safe web regulation to protect our youths as they are impressionistic and already venturing into sex without knowing enough of the dangers of youth pregnancy." - Irene Choo

"Not all information which is equally accessible is of equal value especially for children who are still learning what is right and wrong, helpful and not. The internet is a space that democratises access to almost and and all information. While there are clear benefits to this, the negative impact is the exposure of young people to inappropriate material that may cause social, emotional or psychological trauma or other harm. Parents, educators and other caring adults have a role to play in educating children and youth about what is helpful and what is harmful, but they battle the saturated media environment with a superabundance of negative images and messages. If we care about supporting children to have a childhood and care about guiding children when they are young so they can make better decisions as adults, then I believe we have to all act in concert - which means creating some boundaries and limits to what is appropriate and what is not. The symbolic ban does not achieve this in totality, but it provides substance to a moral compass indicating that all things may be permissible but not all are edifying." - Melissa Kwee

Eeleen Lin
Clydia Ruth
Dauglas Melvin Sim
Hansel Kwang
Lim Boon Teck
Isaiah Koh
Timothy Wong
Su Yin Koh
Fok Li-En Maryann
Lillian Tay
Bixia Wang
Lim Jit Chu
Joy Tan
Dr Oliver Seet
Charlotte Chen
Eric Wei
Jane Tan
Gerry Gan
Christina Lim
Joshua Tay
Esther Cheng
Priscilla Lau
Lee Siew Yin Karen
Irene Choo
Melissa Kwee
Swee Suan Tan

4. Concerned public (51)
"The 'free market' has no values, no obligation, no responsibility and no accountability. Let's NOT allow 'free market' to reign - protect our children and children's children" - Beatrice Choo

"How could we allow something like pornography, hate, racism etc to be unregulated whether in the internet or elsewhere when they are crimes and against public policy!" - Patrick Tan

"To remove the ban is to remove the wall of protection over the young and tender minds of our internet users who are easily and quickly influenced esp. in adverse ways ! Thanks for keeping the ban intact." - Veron Boey

ACTION FOR SAFE WEB REGULATION

"Proper regulation of the internet is an important issue and must not be left entirely to the 'free market'." - Lim Ai Wah

"Our children need to be protected against materials that are objectionable." - Yeo Sin Jo

Sherin Leong Hoe Leng
Kwang Ying Ching
Ang Shih-Yang
Priscilla Ng
Siew Pin Tan
Gladys Tan
Christina K M Lim
Linda Gong
Jonathan He
Lip Yen Lee
Laurence Ho
Stephen Khong
Neo Beng Choo
Veron Boey
Jerry Ong
Yihui Chen
Ian Chen
Peter Chan
Thio Yu Jin
Florence Lim G P
Beatrice Choo
Michelle Woo
Yeo Sin Jo
Shirley Yeo
Guat Eng Loo
Amy Nget
Gina Tan
Priscilla Wee
Patrick Tan
Alan Low
James Chua
Margaret Chew
Abraham Yap
Susie Seow
Suelynn Yap
Brenda Micua
Fenelia Tan
Gladys Lim SH
Mercadia Wong
Patrick Cheo
Juay How Tay
David Saw
Ivy Wong
George Goh
Kazumi Cheo
Daniel YamSer Thong
Jennifer Lee
Lim Ai Wah
Jessie Choi
Melissa Tang
Tan Soh Hoon Jolene

• Email Responses

This section contains a sample of all feedback AIMS has received via email or through the feedback form on our website. The feedback below represents the wide range of responses received from the public.

The identities of several contributors have been omitted on request but the content of the emails have not been edited.

The emails have been arranged in ascending chronological order, from the most recent to the oldest.

1. Received: 22 October 2008

From: Dr Thio Su Mien

Dear Mr. Cheong,

Re AIMS Consultation Paper

I have just returned from The Advocates International Global Convocation held in Washington DC recently and at the Convocation, a Korean Attorney showed a CD about **Online Violence** and its disastrous impact on society, the growing bane of an affluent and high-tech society. The Korean experience is thus very pertinent to us. I shall send 2 sets of this CDs to you by mail.

According to the Korean Health and Wellness Department, the statistics of a 2006 Elementary School Students Mental Health test showed that 26.2% of these children suffer from internet addiction. The Online Violence CD referred to group sexual harassment where 10 boys assaulted 8 girls, copying a scene from internet porn. Reference was made to the Ilsan child kidnapping and the Angyang child murder. The Koreans have great concern that they may be raising more and more Seung-Hee Chos, who went on a rampage and killed 32 people before shooting himself

This is reality. The Straits Times of 13 October 2008 reported "Seoul rushing Bill against cyber bullies". The victim of cyber bullying was Actress Choi Jin Sii who was found dead in an apparent suicide. She had been accused online of harassing an actor who owed her money and that she caused him to commit suicide.

Closer home, the Straits Times reported the case of Michelle Kang, a Secondary I girl whose classmate posted a blog showing a defaced photo of her, labelled a monkey and taunted her with vulgarities. The girl was then accosted by a group of classmates at the National Library. This caused her mother to make a police report and apply for a protection order. She sought the transfer of her daughter to another school.

These cases make it very clear that cyber bullying is still bullying and the law

applicable to such "assaults" should apply equally to cyber bullying. We should not exempt an offensive and injurious act just because it is in cyberspace.

On 19 October 2008, a Briton murdered his wife because he was humiliated by messages she wrote on the social networking site Facebook. (Sunday Times, October 19, 2008)

Submissions

1. AIMS should come to grips with all these very real problems and see whether existing law is adequate to protect these interests. If not, what can be done. Any reasonable policy on the Internet must deal with such issues up front and we look forward to a positive rather than an abstract approach on these very serious concerns. We could look at the Korean Bill on Cyber Bullies which could be helpful.

2. It is submitted that it is rash at this juncture to recommend that "once the holistic approach suggested above is put in place" the current ban on 100 websites should be lifted. This recommendation is predicated on our achieving the results of the "holistic approach". There is no guarantee that the "holistic approach" is wholly holistic or even effective. Only time will tell. Furthermore, one component of a holistic approach is through education which is a long-term process. It is thus premature to predict the outcome of AIMS recommendations at this juncture and it would be prudent not to lift the ban.

3   Many concerned parents don't understand the reasoning in AIMS paper on the 100 websites, as the reasoning seemed very flawed.

    (a) That the net savvy can bypass the ban therefore there is no need for a ban. Based on this argument, we do not need laws in those cases where clever crooks can "bypass" these laws e.g. evading the payment of taxes by fraudulent tax schemes.

    (b) The argument that the retention of the ban on the 100 websites, would lull parents into a false sense of security. First, this is a supposition and important policies cannot be based on suppositions. Additionally, this argument is very flawed. AIMS seek to adopt a holistic approach which will include educating ignorant parents. Ignorant parents will cease to be ignorant once they are told that the ban is a symbolic ban to show the moral compass of the nation and that parents need to be diligent in these matters.

    (c) The third argument is that the value of the symbolic ban diminishes in value with the proliferation of new websites with undesirable content. Hence it is justified to remove the ban. Again, this is flawed argument, because the ban is not all encompassing anyway, that is why it is regarded as symbolic. Its symbolic value will still be there.

On the issue of registration requirements (2.39 page 12) there should be some kind of registration so as to ensure accountability. It is unthinkable that because one is defamed in cyberspace, one has no remedy if the posting is anonymous. What is the competing interest that is gained by a system of no registration and no recourse for harm done to a person maligned? AIMS should identify what is gained by giving up this right.

I trust that AIMS in its continued deliberation will look at the real examples, and at the faces of the victims, whether of cyber bullying or addiction to pornography and other forms of addictions and all their ramifications and their multiplier effect on our society and how we can best guard against these ills. It would be valuable if AIMS could adopt a more robust approach which sends out clear signals on what is socially desirable and reprehensible.

2. Received: 10 October 2008

From: Amy Ang

Feedback on Recommendations in Chapter 3 of AIMS' Consultation Paper "Engaging New Media: Challenging Old Assumptions" dated 29 August 2008

First, I would like to commend the thorough research that is done and it has sketched a comprehensive overview of the current state of affairs in the New Media.

I write in response to the AIMS' Recommendations in particular on Chapter 3 on the "Protection of Minors".

By and large with respect to the issue of protection of minors, it is a non-controversial topic, as to the evident need to shield young and impressionable persons for a time in their formative years from adult-themed subject matters and issues of engagement. The Recommendations as put out are reasonable and sensible. The following are some highlights which could add to the Recommendations:

1.   First line of defence: Education of Both Minors and Parents

        I agree that the focus on education on minors should be the first line of defence. In most likelihood, it is ultimately the most effective one available; as opposed to all other forms of technology filters available in the market.

        There must be a strong element of correct and proper education and inculcation of right precautions and values with respect to cyberspace conduct.

        In some probability, brand new curriculum teaching on what are the rights and responsibilities for being a cyberspace citizen would surface in time. Although increasingly it would seem that, at least in the interim period where there is a divide between the digital natives and the digital immigrants, such cyberspace education should be extended to parents

as well. For, cyber-education should not be the sole and external responsibility of schools and voluntary organizations but that parents have an overarching duty to bring up their children, which includes inculcating in them responsible values and precautionary behavior.

2.   Cyberbullying inflicted on Minors and Adults alike

Although cyberbullying has been identified as a product of the new media on minors, there seems no concrete measures suggested in the Recommendations on Chapter 3 itself to combat this problem. The more pertinent issue here is that cyberbullying is not merely restricted to minors but also to full-fledged adults.

In advanced countries (meaning as in the longevity and the level of societal internet penetration and usage) such as in the US and South Korea, where there are actual documented cases of suicide as a result of cyberbullying among minors (as documented by the AIMS' consultation paper itself) as well as in recent times there have been at least 4 high profile adult deaths[189] through suicide in South Korea.

Therefore, it is obvious that cyberbullying is a pernicious conduct which has to be stopped. Present civil laws are not adequately equipped to deal with private-space rights as well as the immediacy and "permanence" of reputation loss and damage, which are peculiarly related to cyberbullying. Thus, legislation is certainly called for in this area, although effective enforcement measures must go hand in hand.

3.   Widening the "Mandate" for the Agency for the protection of minors

There is a Recommendation to establish a dedicated co-coordinating agency for the protection of minors. However, a widening of the "mandate" for the said Agency could be made.

First of all, Media Development Authority ("MDA") must be applauded for taking steps to ban 2 pornographic video sharing websites in May 2008, despite pressure and criticism from some liberal segments of the public.

However, MDA's scope of purview presently seems to be more commercial (i.e., MDA's 5 strategic aims are to develop a state of the art media city, position Singapore as a media exchange, export made-by-Singapore content, augment the media talent pool and foster a conducive regulatory environment and culture) rather than regulatory in nature.

It would seem that this mooted protection of minors Agency, which has its intended structure of including relevant external stakeholders which

189 Actors: Jeong Da Bin, Ahn Jae Hwan, Choi Jin Sil & Singer: U Nee.

such as members of the public sector, academic, industry, community groups, parents and educators, could also widen its scope to deal with arbitering on New Media issues such as cyberbullying, deviant and subversive internet content propagation, etc since such issues may not predisposed themselves directly to court processes and court resolutions. Such a set-up could be a balance struck between total State regulation (exclusive of community self regulation) and total Community self regulation

3. Received: 10 October 2008

From: Miss Lim

To whom it may concern,

I have heard about AIMS and am interested in the progress of how the government will handle free media, i.e. internet, given the revolutionary impact it has on society.

However, as much as I understand how beneficial the internet can be as a medium of communication between our country's leaders and the common people, I can just as easily spot the dangers.

I would like to speak from the perspective of an educator. Children these days are already easily bombarded with messages that, if one really draws a standard of moral quality, cause the degeneration of civic-mindedness and personal mores rather than encourage them. Any Joe with the least bit experience with the internet knows how undiscriminatory information is available on the Web; even unsavoury ones. My first instinct as one who has been given charge of young ones is - to impart the younger generation with discerning knowledge of what is healthy against the undesirable; to groom them into upright citizens and to guard them against contact with harmful material; that means mature, selective content-teaching. Would not the government, who has been given charge of the millions in this country, take the same care? Even as the ordinary man on the streets who would be discriminatory in the information that is processed through the mind; how much more the government which desires a family-oriented, upright and gracious society?

Hence, as much as using the internet is advantageous, having checks is wise because whether one likes it or not, there are indeed harmful elements in society who is licentious in their use of the free media to promote undesirable messages. Even the naive sharing of personal thoughts (i.e. blogs) can prove dangerous because unless a person makes a strong stand in opinion, influence is inevitable. In this line of thought - how many young ones are mature enough to unwaveringly differentiate between what is right or wrong, what is gracious or opinionated and in the light of events in the recent years... what is natural or un-natural?

I urge the deciding committee to take much care in how the free media would be regulated. Jeers might arise at any sign of restrictions; but I hope that you would

consider the end - what kind of people do you want Singaporeans to be like years down the road?

4. Received: 10 October 2008

1. The Internet is no longer the exclusive domain of a few outspoken bloggers and website.

(a) The distinction between private and public spaces is unclear. Internet content and 'acts' are not isolated 'acts' of expression that have no impact on the greater community.

The Internet is heavily used for activities such as banking, commerce, education and social networking. A blog or website is no longer 'contained' or 'private', in light of the inter-connectivity of the Internet via RSS feeds. Any false information or smear campaign conducted within one website has far reaching implications.

(b) The petition by the 15 bloggers and other similar calls for freedom without regulation or minimal regulation, advocate radical liberalism. They assume a clear demarcation between private and public realm. They assert that their cyber-acts should be protected as constitutional rights of free speech (this right is limited in every jurisdiction). In so doing, they ignore legitimate claims that their acts have adverse effect on others. They unjustifiably demand that the onus of disproving 'harm' to others fall upon the state or the others, and freedom must therefore be paramount in the absence of such proof.

(c) Since the Internet affairs affect everyone, the state is required to intervene to protect the interests of other individuals and the community.

2. Laws and regulations should not follow fact.

One popular but fallacious argument is that availability on the Internet or elsewhere (e.g., 'black' market) justifies lowering of content regulation for all Media.

We should always consider the differing function and accessibility of each medium, be it the Internet, TV, film, videos or games. The Internet contains good and harmful content. This does not mean we should stop discerning what is good and harmful, and start allowing all types of content for all types of Media.

For example, the viewing of pornography for example occurs in the bedroom of an individual. He must purposefully access it and be so gratified. The fact that an individual can do so ('private' viewing), does not mean we should then lower the content standard for TV, film, video and games. The fact that individuals access pornography at home does not mean there is no harm to our society.

By harm, we do not mean a strict cause and effect analysis. A man who frequently views pornographic materials negates his (potential) role as a husband and father. Since the morality of society is made up of the individual moralities of all individuals, the so-called private and harmless viewing of pornography will undermine family values and units.

TV & radio channels, and cinemas are public spheres where cross sectors of Singapore's multi-racial and multi-religious communities come together. MDA should maintain content standards that adhere to public morality. What is subjectively good to an individual in his or her bedroom cannot be taken as a standard of what is good for the society at large.

The state needs to protect public morality, and carefully weigh the demands of a vocal few who seek public endorsement of their 'private' morality against the broader interests of society. Their free speech arguments must be carefully considered. Free speech is not an end in itself; it is meant for the democratic airing and discussion of differing viewpoints, to achieve truth or at least the good.

3. Principle or model of regulation

There are several models of regulation:-

(a) On one end of the spectrum, the model based on 'green light' is premised on a philosophy of laissez-faire and individualism, e.g., proceed without limitation unless harm is shown.

(b) On the other end, the model based on 'red light' calls for significant intervention based on control, e.g., issuance of licences before proceeding.

(c) The middle ground or balanced model is the 'orange light' model which is utilitarian in its approach – the greatest good for the greatest number, and the welfare state has various roles such as protector, adjudicator, regulator and facilitator of individual and community interests.

4. Specific contexts

The type of model of regulation should depend on the specific contexts. For example, should the model of regulation be different for matters of public morality as opposed to political speech?

(a) Community interests: Should there be a greater balance in favour of community interests in the context of content or speech that is defamatory or malicious? How should we enforce the laws that protect racial harmony and prohibit acts calculated to wound racial or religious ill-feelings (ss298 and 298A of the Penal Code)? An example of a website that seeks to wound racial or religious ill feelings is Yawning Bread. See for example: "Christian Taliban demands censorship" (available at http://www.yawningbread.org/arch_2006/yax-666.htm).

(b) Competing individual rights and interests: Apart from the community interests, individual interests may be adversely affected by unregulated content on the Internet. For example, the recent 377A debate involved personal and professional attacks against specific individuals and groups on the e-blogs.

The approach towards New Media regulation should therefore be more nuanced. It is dangerous to accept 'liberalism' as the overriding philosophy for our laws and practice.

5. Proposal to set up a panel of young digital natives to serve as a consultative body

Since the Internet has the power to affect the interests of everyone, not just content providers or avid young users, the consultative body should comprise several representatives of varying backgrounds and interests. A panel of young digital natives will be seen as a power group advancing its own interests; this is unjustifiably sectarian.

There should also be a regulatory body that:-

(a) Receives feedback from the public

(b) Receives and responds to complaints by affected individuals or groups

(c) Makes known the recommendations of a broad based consultative body, and its own reasons underlying its final decision.

(d) Conducts investigation of complaints

(e) Requires ISP/ASP/NSP that 'sit' within Singapore to effect the removal of the offensive websites or webpages upon investigative outcomes.

6. Symbolic list – 100 websites

Given the potentially harmful effects of the Internet (e.g., pornography, suicide prompts, violence, terrorism, wounding of racial or religious feelings under the guise of informed 'secularism' or 'progress') and the growing response of jurisdictions such as Australia towards acts of sexual grooming and pedophilia, this list should be substantive and not symbolic. Websites which violate the rights and interests of individuals and undermine community interests such as racial and religious harmony and family values should be blocked. This will entail a daily scrutiny and sweeping of the Internet – the public can play a role in highlighting offensive websites.

5. Received: 10 October 2008

I wish to comment on two issues.

First, the steps towards protecting minors considered by AIMS seem to focus mainly on access to objectionable content. What about the other threats to minors on the Internet? For example, much personal information is collected from and supplied by youngsters that can be used to identify them and/or to compromise their personal safety as well as to pose financial risk to themselves and their families. Apart from education, much could be done legislatively to protect minors.

The committee has identified cyberbullying as one of the concerns for minors but yet its recommendations in Chapter 4 (discussed below) would have the end-result of encouraging cyberbullying.

As a society, Singapore may wish to retain the symbolic ban of 100 websites and to loudly proclaim it as such because of its desire to uphold certain values dear to the Singaporean community. It is perfectly legitimate for a society to uphold its own cultural sovereignty on the Internet. In any event, even in the US, freedoms are never absolute.

Second, the rationales given for the recommendations in Chapter 4 are incongruous and unclear. It seems that a fundamental flaw with much of the thought in Chapter 4 is its treatment of defamation as if it is a wrong that is similar to copyright wrongs. The interests protected by copyright and defamation laws are vastly different. The idea of "take down" and "put back" does not really make much sense when one is dealing with content that is defamatory.

A person's reputation is paramount as the Internet is an easy means by which a person's life, livelihood and mental health can be attacked and destroyed. Once mis-information is circulated on the Internet, it is virtually impossible to eradicate it or to have the truth be told and believed because it is so easy for the mis-information to continue circulating. Information is unlike copyright or a piece of tangible property that one can withdraw from public circulation and perhaps have it destroyed forever.

See also the recent concerns of Sir Tim Berners-Lee, one of the persons credited with creating the Web (Today 17 Sep 2008, at 25). Similarly, the committee may wish to look at the work of Prof Cass Sunstein at the University of Chicago, and Judge Richard Posner, "Bad News", NY Times July 31, 2005 at 1.

Is it an objective to encourage responsible use of the Internet, whether one is a minor or adult? If so, then the regime should be aiming for holding more related parties responsible, not less. I remain to be convinced that the provision of immunity will "provid[e] excellent online content" (at 6.5). One needs to weigh the so-called benefits against the harm against an individual who is the subject of cyberbullying, online attack, and online harassment, especially bearing in mind that all of harms that ensue may be irreversible, unlike in the print medium. In any event, it is often the case that the person

being attacked does not have the means to take legal action, and this may be further compounded by the cyber-attacks that may send the victim into deeper financial difficulties, such as job loss.

Is it truly the belief of AIMS that good faith is the correct and sufficient level at which to set the immunity?

6. Received: 4 October 2008

I am a recent law graduate from the University of Melbourne and am returning to Singapore for good next year. The AIMS paper drew my interest because it showed an awareness that Singapore is concerned with social responsibility for internet issues – it is government initiatives such as this that draw overseas

Singaporeans such as myself to choose to return home to a place of responsible governance.

Born in the 1980s, I belong to the one of the first batches of Singaporean students who experienced the IDM as part of both work and play. Digital media was first introduced when I was in primary school, and fast became an integral part of our lifestyles throughout my teens. Our view of not just work, but also leisure changed. It is only now, in my early 20s, that I begin to see the impact of IDM on my generation.

A. Protecting Minors

Internet addiction is probably one of the biggest problems arising out of IDM, for my generation. It is not uncommon for males (or even females) to have become addicted to online gaming in their teens, even forgoing meals and spending disproportionate amounts of time in digital combat. These addictions do not go away as they become adults; friends continue to struggle with gaming addictions even in their 20s. This builds a generation of men who are more preoccupied with digital, violent, non-verbal interactions rather than social ones. One might query how healthy this is for building a society that is aiming to be socially and intellectually engaged.

Addiction to internet pornography amongst men of my generation is also not only common; it is alarmingly increasingly viewed as normal. This is a generation which has had free access to pornography at the click of a mouse, without having to experience difficulties in locating print and film sources that the generations before had. Shame is no longer a deterrent as porn can be easily accessed behind closed doors. Many of these men are otherwise honourable people, who simply logged onto internet websites as curious, testosterone-charged teens, not understanding the long-term impact of their actions. Women today also increasingly buck the stereotype of male porn users – an online source quotes 1 in 3 visitors of pornographic websites to be female[190]. I know female friends who are addicted to internet pornography as a result of unfortunate curiosity in their teens. Evidently, minors are currently placed in a position where they possess power and freedom to make a choice which produces far-reaching implications beyond their understanding. Some of them experience immense shame in their 20s, but find themselves already trapped in battling their addictions. These addictions acquired during pubescent years often do not stop even in marriage.

More worrying, though, is the alarmingly large proportion of men who now view their pornography addictions as a norm or even necessity – it is their partners who become adversely affected by these addictions. Men grow up learning to objectify women as represented in pornographic online videos. Women friends my age struggle with reconciling disgust at their partners' addiction to pornography and their partners' nonchalant attitudes towards these responses. Many are increasingly pressured into sexual relationships that seek to mimic what

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190 http://internet-filter-review.toptenreviews.com/internet-pornography-statistics.html.

is viewed online, and have sadly accepted that this is the norm they must comply with in order to sustain their relationships. Most started out in such physical, sexual relationships when they were minors. What kind of marriages and families will be built upon such foundations and values? In making a policy choice to deregulate offensive internet websites, we are in danger of implicitly making another – condoning the objectification of women as a natural right of men, a worldview we have fought hard to eradicate in the emancipation of women.

I believe the problem of pornography will have social repercussions in time to come, which will resurface in the breakdown of marriages and the family unit in my generation if nothing is done. This is primarily an issue of protecting minors, but the far-reaching impacts of pornography affect not just minors, but adults who are similarly addicted. Deregulation of such sites would run contrary to current public policy encouraging strong and stable families as pillars of support in society[191]. It sends conflicting signals, especially to the loved ones who have to grapple with the effects of partners with pornography addictions. I do not think pornographic sites should be deregulated because this is a case in which 'personal preference' runs contrary to the public interest and impinges on interests of the partners involved.

B. Strategies

I agree that education is a long-term solution. We try to protect children from things with the assumption that they will grow up to become discerning adults, able to protect themselves from harm. Without education, however, we are merely delaying harm to children, who, once liberated from control, will take to forbidden fruit with increased anticipation.

With regard to internet addiction, however, even if children were educated of the risks involved, it must be assumed that there is a likelihood they will still indulge in risky or addictive online behavior out of curiosity, fun or pure defiance. Adults with the greatest proximity have the greatest responsibility during this time. They should be encouraged to increase media literacy as part of effective parenting.

I think stop-gap measures still play an important role at the age where education is still taking time to register its desired effect. Most pornographic and offensive content are obtained by minors through internet websites and file-sharing downloads. The FAN service is an excellent measure to address this. The low take-up rate may be simply due to lack of promotion and low visibility; if such a beneficial service is to be provided, it must first be made known on a larger scale than part of the sales package rattled off by a sales assistant upon signing up with an ISP.

The blanket ban of 100 websites should be kept. As stated in the AIMS paper, it barely covers all pornographic and extremist religious websites, but is there for a symbolic reason as a reflection of social values. The law produces an ethical

191 http://app.mcys.gov.sg/web/faml_main.asp.

stance, and society responds to it. Even if this ban is removed for practical reasons, it will send a moral message regardless, about the liberalization of our core values, especially to our youth. If the ban causes confusion to parents and a false sense of security, then the problem is in information dissemination to parents and not the ban itself. Solutions should target proper education of parents rather than removing the ban altogether. If, in trying to control the issue better, a signal is sent that the issue is now a non-issue, it would defeat the original intention of removing the ban altogether.

It is in fact heartening to know that my country is not bowing to international pressure to liberalize 'lifestyle choices' which are actually core values. I believe the government will be prudent in distinguishing between the two, and make wise decisions in pursuing strategies that will further the public good over personal choice in matters pertaining to our core values and social fabric.

7. Received: 3 October 2008

From: Dr Thio Li-ann

Gneral Observations

1.   Virtual Speech, Real World Impact and the Applicability of the General Law of the Land: Insofar as the Internet as a means of virtual communication and interaction has real world impact, it should be subject to the general law of the land rather than an exceptional regime. The World Wide Web is after all a technology which human beings can use for good or bad purposes, much like print media, though the accessibility of the internet and its multi-jurisdictional reach may bring about difficulties in attribution of liability and enforcement. Nonetheless, it is important to draw a distinction between the desirability of enforcement and the capacity to enforce a legal norm.

2.   Hard to Enforce Laws have a social function to play: The law has multi-faceted functions, it facilitates commercial transactions, allocates risks through tortious duties, deters and punishes anti-social or criminal behaviour; it also has an educative or pedagogical function in signifying to the polity of citizens what is normative, desirable and sociable; in delineating the boundaries of accepted social behaviour, a legal system not only upholds the rule of law, but the rule of good law. This relates to communal norms and "our well being in society"[192], of which fundamental liberties are a part, as the Singapore High Court has recognized.

3.   Singapore Communitarianism: Singapore espouses a "thick" rather than "thin" conception of communitarianism (which is not to be conflated with statism or collectivism) – this entails a vision of the individual who is situated in society, in a relational network with family, associations

192 Rajeevan Edakalavan v Public Prosecutor [1998] 1 SLR 815 at para. 21.

and the national community at large. It does not view the individual as an atomistic unit existing in splendid isolation, as do many schools of liberal thought, from which abstractions flow the imputing of a sacrosanct status to individual autonomy. Instead, communitarians think it crucial to debate a theory of human good, human community and what serves the human welfare. From liberalism flows the idea that the state should be neutral and not regulate e.g. what people read online or what they post online. This is because the ultimate liberal value is that of autonomy expressed through choice or consent (but there are limits to choice). The liberal presumption is that of liberty, whereby any restrictive legislation needs to be justified to be legally valid. This is only one starting point for analysis. A 'communitarian' approach to state and society adopts a more holistic approach in considering the social function of the law and how it would, in this context, reconcile the expressive rights of the speaker with the rights and competing freedoms of the object of the speech as well as community interests.

4.   Identifying and Balancing all interests: The AIMS Paper rightly observes that the task is to ascertain the best "balance" between individual expression and communal values (para. 1.1.). All relevant interests must be considered, rather than a lop-sided consideration of any one point of view. It is instructive to consider the approach adopted by the learned judge in the 'racist blogger' case,[193] which provides a reasoned judicial approach towards the limits of digital speech in Singapore. Noting the ubiquitous reach of the Internet and the capacity of racist online speech to provoke real social disorder, the Senior District Judge noted:

The virtual reality of cyberspace is generally unrefereed. But one cannot hide behind the anonymity of cyberspace, as each accused has done, to pen diatribes against another race or religion. The right to propagate an opinion on the Internet is not, and cannot be, an unfettered right. The right of one person's freedom of expression must always be balanced by the right of another's freedom from offence, and tampered by wider public interest considerations. It is only appropriate social behaviour, independent of any legal duty, of every Singapore citizen and resident to respect the other races in view of our multi-racial society. Each individual living here irrespective of his racial origin owes it to himself and to the country to see that nothing is said or done which might incite the people and plunge the country into racial strife and violence. These are basic ground rules. A fortiori, the Sedition Act statutorily delineates this redline on the ground in the subject at hand. Otherwise, the resultant harm is not only to one racial group but to the very fabric of our society. (italics mine)

5.   For present purposes, several points are worth noting:

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193 PP v Koh Song Huat Benjamin [2005] SGDC 272.

a. Blogs and accessible web discussion forums are part of the public realm and subject to general law; hence the principle of responsibility, which forms part of our unwritten social constitution, applies to views in cyberspace. Digital speech should in principle not be treated differently from other expressive forms.

b. Free speech is not an absolute right as the right to propagate a view on the Internet is not "unfettered". Indeed, Article 14 of the Singapore Constitution is the starting point for discussing the legal framework relating to the regulation of speech in Singapore, which is a constitutional liberty, whether actual or virtual (old and new media respectively). This conditions the scope of free speech by empowering Parliament, as it considers "necessary or expedient" to enact restrictive legislation based on 8 exhaustive grounds. These include the security of Singapore, public order or morality, and restrictions designed to protect the interested shield by laws on defamation, contempt of court and incitement to commit any offence. An instance of the latter might be inciting someone through online methods into committing the offence under section 298 / 298A of the Penal Code of wounding racial and religious feelings – this is a very real threat to public order and social harmony in the Singapore context, as the racist blogger case itself indicates.

c. Weighing All Interests rather than exalting one to the neglect of others: In identifying the interests to be weighed, the learned judge carefully differentiated at least four different factors and rejected a lopsided consideration of the rights of one party (the speaker), in considering the rights of other parties (the object of the speech, to be free from offence etc) as well as that of the wider public interests. This was again differentiated into the interests of one racial group (a community) and the very fabric of society (the larger nation).

6. There is clear precedent for to support the existence and appreciate the utility of 'hard to enforce laws'. These remain on our statute book, as Parliament recognizes their social value. For example, it is difficult to enforce section 27(A) of the Miscellaneous Offences (Public Order and Nuisance) Act which makes it a crime to be visibly nude to the public, even if one is basically walking around one's own abode naked. This statute gives the police power to enter a private place forcibly without consent, to arrest offenders. In moving the bill, the Minister explained that while a person had a right to privacy in his own home, "it should not be exercised at the expense of public decency and morality, especially in high-rise housing estates where persons from all communities live next to each other".[194] This is a strong statement of communal values of public decency, legislatively embodied. Two points bear mentioning: no

priority is given to individual rights of privacy but this is considered in the broader social context; secondly, intangible values like the public sense of decency are recognised as important components of the common good, which frames the discussion of the scope of any right.

7.   Only a community devoid of all sense of morality and decency tolerates all things. Singapore does not espouse that form of social libertarianism, nor should it now. For example, in relation to general censorship laws, Singapore bans pornography; this not only erodes moral character of individuals but the moral compass or backbone of a society which is a key component of social resilience. The converse approach might be found in the critique of an Amnesty International (AI) spokesman, drawing from liberal (or libertine) tenets, towards Singapore censorship policy. In the name of private choice, the AI spokesman opposed bans on materials which eroded public morality such as those which promoted pornography, sexual promiscuity and perversity, nudity and violence on the basis of the naïve view that the cure to harmful speech is 'more speech'.[195] This disregards community values entirely in the favour of a libertine ethos. It is not a measured or well-calibrated approach. This free-wheeling laissez faire approach would, taken to its logical conclusion, forbid prohibitions on religiously offensive cartoons like the Prophet Muhammad cartoons carried by the Danish newspaper in 2005.

8.   Clearly, Singapore does not adopt this laissez faire approach as we are conditioned by social realities, a sense of respect for religious sentiments and mindful of the need to secure racial and religious harmony and not to wound religious feelings callously. This is part and parcel of religious tolerance itself. Peace is a blessing to any community and should not be taken for granted.

9.   If Singapore wants to promote sound values like filial piety, civility and social conscience and strong family values such as sanctity of marriage and the importance of the nuclear family as the basic unit of society where children are reared, it cannot afford through its laws and policy to send out conflicting messages. If Singapore wishes to uphold gender equality, as it is obliged to do by dint of its treaty obligations under the Convention for the Elimination of All Forms of Discrimination against Women (CEDAW) and the article 12 constitutional guarantee of equality under the law, it cannot adopt a laissez faire attitude towards materials which degrade women through projecting subordinate sexual stereotypes, such as pornography. Perpetuating such social mindsets may harm the positive liberty of women to fully realise their potential

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195 see Sydney Jones, "Free Expression on the Internet", Letter to Singapore Government, 13 August 1996, online: Human Rights Watch <http://www.hrw.org/advocacy/internet/sing-ltr.htm>.

e.g. if they are seen as sex objects or inferior in any way, how will we ever have female representation in the top echelons of government and public service that transcends tokenism?

10.   When we speak in terms of evolving new legal approaches to match social realities, it is important to ask whether social morality is evolving upwards or downwards rather than to be seduced by the naïve assumption that things are improving – the taste for vulgarity and violence indicates otherwise. Sometimes the role of law is to regulate our baser instincts or proclivities. Morality is not determined by mathematics or feelings; morality is in fact meant to curb the worst excesses of feelings. The state cannot be neutral on questions of morality as it has to take a stance, and to take a stand is to make a value judgement. This cannot be avoided and he focus should be on which is the most sound and prudent moral judgement to be made and reflected in law and policy.

11.   Law does not merely reflect fact; it constitutes fact; it signals what is acceptable and unacceptable e.g. Singapore's strong anti-drug laws which frown on drug-taking as recreational – this is because Singapore policy-makers fully appreciate the devastating costs of this form of behaviour and therefore intervene into what some might consider a "private choice" or a legitimate "alternative lifestyle choice". This falsely assumes that what one does in private has no public impact, causes no harm to the public. But harm is not merely material; it can be intangible and affect third parties. We care about the intangibles (democracy, morality, decency, civility, the intrinsic worth of each human person) and any reformulation of the law and policy cannot discount this. We are effectively defining who we are and hope to be as a society in this task of figuring how to regulate the internet having disavowed the twin extremes of "no regulation" and "no freedom" for a "some regulation" model, which is prudent. As the AIMS paper notes in rejecting a unhinged laissez faire approach, there are "unique" aspects attending the Singapore context and while learning from the experience of others, we still need to chart our own path as there is "no model to learn from" (para 1.7)

12.   Gradating the Value of Speech: Free speech is not an end in itself but a means to an end. The end is usually phrased in terms of the goal of promoting truth in free speech, to promote self development by allowing a free conscience to be articulated expressively and to facilitate democratic debate, in relation to which free speech has often been said to be the lifeblood of democracy. We may therefore categorise the various forms of speech e.g. political speech, artistic speech, pornography, blasphemy, racist hate speech etc…and evaluate how much protection each warrants. There is a theory underlying all these various speech categories and degrees of regulation may be calibrated accordingly to serve the social function (this includes protecting the rights of the speaker, the rights of the object of the speech, the interests

of the hearer and the community at large) of any particular category. We can distinguish between the value of political speech, profane speech and perverse speech as it were. Legislatures and courts do this all the time.

Specific Comments

Protecting Minors

13.   It is important to realize and give effect to the protective function of law. This is self-evident in relation to minors, given the special vulnerabilities of members of this category. It is important to complement legal regulation with training and education to teach minors discernment and moral character. As former South Korean dissident and later President Kim Dae Jung pointed out: "The proper way to cure the ills of industrial societies is not to impose the terror of a police state but to emphasise ethical education, give high regard to spiritual values and promote high standards in culture and the arts."[196] I agree with the AIMS recommendation that dedicated funding be provided to ensure that minors learn how to tell a bare assertion from a reasoned argument, truth from falsehood; to develop their critical faculties, the importance of intellectual diversity should be underscored; minors should be taught the importance of 'audi alteram partem' – of hearing the other side and then evaluating the cogency of arguments on the basis of reason and conscience.

14.   This is important for all netizens in general, as Professor Cass Sunstein has pointed out that new internet technologies greatly increase "the opportunities for intrusive, fraudulent, harassing, threatening, libellous or obscene speech."[197] 233 Democratic debate may be undermined insofar as the internet hinders ideological diversity. Individuals may filter through and customise what they read, to only read views they agree with rather than being exposed to a plurality of views which all citizens ought to consider and weigh. Truth, which is established to be rigorous sifting of facts, becomes displaced by political preference and personal agendas. Politics may shift and become fractured, turning from a conversation about the common good towards narrow group interest based politics. If you only listen to people whose views you already agree with, you may end up with a more extreme version of your own views, by insulating yourself through customised content delivery or selective surfing to hear only one school of thought, whereas competing views have a moderating effect. So cocooned in an viewpoint ghetto, like-minded people may incite each other to perform acts such as harassing speakers they do not like, particularly where the anonymity of internet and the lack of

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196 Kim Dae Jung "Is Culture Destiny: The Myth of Asia's Anti-Democratic Values' Foreign Affairs (Nov/Dec 1994), p. 189

197 Cass Sunstein, "The First Amendment in Cyberspace" (1995) 104 Yale L.J. 1757 at 1792.

face-to-face contact (which qualifies how we deliver our views as we can read the responses of those we address) provokes irresponsibility or cowardice. This portends a form of 'social balkanisation' and the loss of the social capital of mutual trust and respect.

15.   However, I disagree with the recommendation in para 2.58 to lift the ban on websites as symbols are important. It would be to attribute a certain degree of naivete to parents to assume they think that a ban on websites is an effective defence in relation to shielding their children from undesirable and harmful web content. Parents should be given more credit than that. The ban on the 100 websites should be retained and publicized, so we will know what the 100 websites are; an important normative message or signal is sent out through this ban of what is desirable or good or estimable; it sets out the Singapore vision of human community, human good and flourishing and provides important signals or guidelines as to what society considers normative, identifying in concrete fashion the communal values we uphold and which we should continue to uphold. If we recall the rationale for banning 100 internet pornography websites in 2001, knowing full well that access is not precluded, this was because this was a symbolic statement of our values. The power of symbols should not be discounted as these serve an important social function. The force of the rationale underlying the 2001 ban remains[198] – it serves as a kind of northern star and was an exercise in idealism, mitigated by realism, Singapore style. We may not always live up to the goal, but we need to have a goal to orient our hearts and minds towards. That is why Constitutions have preambles to identify fundamental values; that is why the ASEAN Charter of 2007 espouses good governance values relating to human rights democracy and the rule of law, even though these are not always perfectly realized. We need to know what standards of excellence are; it informs our personal and national identity. Therefore, the ban should remain.

16.   The alternative approach of not banning anything online rests on a "department store" idea of society where the state preserves 'neutrality' between visions of the good life, where goods are stocked for both hedonists and spiritualists, for illiterate pleasure seekers and refined intellectuals etc…in the name of a certain vision of 'inclusion'. This is a fallacious argument as it is impossible for the state to be neutral or agnostic. If the law forbids moral assessment and discernment, if there is no way to differentiate between pornography and Plato (as this would need an external standard beyond human choice or preference or subjective self-determination), does this connote some degree of absurdity and a lack of proportionality, in the name of maximizing individual autonomy and choice? What does it say about the character of a community? How can choice be so important when what is chosen

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198 Sing. Parliamentary Debates, vol. 73, col. 557 (9 March 2001) (Mr. Lee Yock Suan).

is not important? Free speech once was about publishing Solzhenitsyn; today, the measure of free speech is to allow pornography. This is an exaltation of the trivial and manifests a form of moral paralysis or cowardice in being unable or unwilling to distinguish between valuable and non-valuable speech, in the name of a false ideology of liberal neutrality whose priests do not hesitate to silence their critics.

17.   Any mature thinker realizes that a governor needs to make decisions. To insist that all views are morally equivalent, one of two things must happen which may threaten liberty and freedom. First, all is well if there is a spontaneous acceptance by all concerned of the postulate that all moral views are equal; aside from the problem of being unable to prioritise between competing interests as a radical egalitarianism may insist all views should be equally treated (an impossibility), this is highly unlikely to happen, given the disparate extant intellectual convictions and views on this matter. To disagree with someone does not entail disrespecting that person; just rejecting their views. Second, given it is unlikely that we are all going to agree on issues of profound moral difference, the only way for the state to espouse "neutrality" of this sort, which is false, is through coercion which is illiberal. The state would have to insist all views are equal, which is a homogenizing ideology, the very essence of tyranny. If someone disagrees strongly with another view, disrupting the equilibrium of an asserted moral equivalence of all views (how then can we speak in terms of good and evil, right or wrong?), the only response would be to coerce them into silence, to exclude dissenting views in the name of a dubious ideology of inclusion. The irony is apparent.

Political Speech

18.   Political Speech which serves informed and reasoned debate promotes democracy: political speech is the lifeblood of a democracy and serves the interests of the community in having robust and informed debate. The goal is to have informed debate, with all participating and with access to necessary information so as to make reasoned choices.

19.   Liberalising the Films Act: In principle, I agree with the view of AIMS that section 33 of the Films Act needs to be reformed. This is because it is over-inclusive, in banning both balanced and reasoned party political films and emotional and sensationalized films. That is, content that is valuable to political discourse is made unavailable or sanctioned by law. The AIMS report gives both a principled and pragmatic reason for reform: in principle, the internet is an "important platform for political purposes" (para 2.26) and the pragmatic one is that "technology has out-placed the law (para. 2.26).

20.   While liberalizing the showing of online political films (extending the positive list approach), it is important to ensure that speakers be accountable for their speech where this harms the rights of others or

the interests of the community. I am not sure that doing away with registration is the best approach as it is important to identify speakers as well as actors which host content, to ensure that due diligence and conformity to the laws of the land are realized. The issue is not simply one of "Trust" but also of "Truth" as political entrepreneurs are more interested in advancing their own agenda then in seeking the common good.

21.   Of course, having a credible mainstream media is an important counter-balance but in the context of Singapore, it is clear that the media (or at least some journalists) have been less than objective in their coverage of issues e.g. a certain bias is evident in the opinion of many that certain journalists are sympathetic or even supportive of the controversial homosexualism agenda e.g. articles extolling the virtues of same sex marriage and homosexual 'parenthood' and adoption, and the problem with this is that the voice of others who dissent can easily be quelled or not given the same public access. In such instances, it is important to have online discussion to voice all sides to a debate so that partisan journalists are not unfairly positioned to crusade for their preferred political and moral views, without having to face and answer their detractors. There are also problems with the proposal of having an independent panel of non-partisan experts – who decides what non-partisan is? What is the legitimacy of the unelected panel? How do we ensure that certain views are not squashed by the bias of panel members?

22.   Online Defamation and Intermediary immunity: I agree it is important to have clear rules on this issue; but also equally important is the chain of accountability and due diligence obligations. This is because competing and real interests are at stake; not least the honour of a defamed person. We live in a society where reputation and honour is important and not something to be cheaply impugned. Our political libel laws are premised on the idea that if insufficient protection is accorded to politicians or those in public life, honourable and sensitive men may be deterred from engaging in public life, to the loss of all. While this point cannot be over-stated as politicians and their policies should be subject to robust scrutiny and discussion (they should be thicker skinned in the interests of democratic debate) the point also cannot be understated as reputational interests are real and there must be effective redress for real injury. Intermediaries may be subject to good faith duties to take down content where a "credible" complaint has been made - but is it sufficient to so calibrate responsibility in this manner? Who decides what a credible complaint is? There must be a better process than leaving it to the absolute discretion of intermediaries to do so. An oversight panel which can name and shame recalcitrant intermediaries or some such external mechanism of accountability is needed to ensure the interests of all are safeguarded. This is important given the ease of republication of the internet (cut, paste, upload).

23.   Republishers should not enjoy absolute immunity for disseminating harmful and defamatory statements or harassing statements as this only promotes cyber-bullying and cyber-nuisance, which can all too easily degenerate into criminal intimidation. We have already have instances of this in relation to the section 377A debate, which I raised before Parliament, where an academic colleague was subject to an onslaught of online attacks and even what appeared to be a concerted effort or campaign to discredit her professionally. A website put up her name, email and working place address and called for letters to be sent to her employer calling for her dismissal. Indeed, letters were sent to the Dean of the Law Faculty (who is the deputy Chair of AIMS) and his vice-deans demanding the removal of this colleague or that she should be reprimanded or chastened for her views, for publishing a newsletter article arguing for the retention of section 377A Penal Code (which criminalises homosexual sodomy).[199] This is blatant intimidation, a threat to academic freedom and to the importance of intellectual diversity and viewpoint pluralism which is crucial to the health of a democracy.

24.   It shows in sharp relief the dark side of the Internet (which otherwise has many virtues in terms of democratic debate). What redress will be provided for this form of bullying? This is something AIMS needs to tackle directly or bring to the fore since it is not speculative but actual. Does the statutory offence of harassment under section 13 of the Misc Offences Act for example address this situation which at minimum is a form of nuisance? Does the law on criminal intimidation? This is not a future problem; it is one any responsible policy-maker must address now.

25.   If cyber-bullying is not regulated and clear signs are not sent, by law and by code, that this is not an acceptable manner of conducting debate, as it does not advance truth and is really what is called 'argument by insult' (name-calling to discredit an opponent rather than addressing the merits of an argument), this entails the degradation of democratic debate.

26.   It is what I call "horizontal chilling", citizen to citizen (not vertical chilling as where libel laws extracting huge damages may chill a citizen's desire to criticize a politician) which does not serve any free speech rationale and in fact, constitutes not the use but abuse of expressive rights to oppress others. As Justice Rajah observed in Chee Siok Chin v PP[200]

Contempt for the rights of others constitutes the foundation for public nuisance. All persons have a general right to be protected from insults,

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199 I discuss this disgraceful incident in an article I wrote on free speech in Singapore, which I here attach for your information: Thio Li-ann, 'The Virtual and the Real: Article 14, Political Speech and the Calibrated Management of Deliberative Democracy in Singapore' (2008) SJLS 25-57 at pp. 54-56 especially.

200 [2006] 1 Sing. L.R. 582 at 632.

abuse or harassment. Those who improperly infringe or intrude upon such a right to draw publicity to their cause, regardless of the extent and sincerity of their beliefs, must be held accountable for their conduct. The right of freedom of expression should never be exercised on the basis that opinions are expressed in hermetically sealed vacuums where only the rights of those who ardently advocate their views matter.

27.   New Social Tensions: These comments are equally applicable to instances of cyber-nuisance. The intimidation is no less real for being in cyber-space and it will make any citizen think twice about speaking up on an issue which will attract the vicious and vulgar attacks of a vocal minority of online savvy activists. Why bother to speak up when you will be viciously shouted down, the merits of your argument ignored through the distracting tactics of name-calling and insult? This will prevent all or a broad spectrum of views from being aired, undermining the quality of democratic debate; it will also, if unchecked, give vocal minorities a disproportionate voice, a megaphone, which does not accurately reflect public sentiment or morality. Only extreme views will be given attention; the moderate majority view will fall by the wayside as shouting rather than reasoned and engaged debate will determine whether one is heard. This is inimical to the democratic ethos which presupposes informed debate and a focus on the content of a speech, rather than childish and vicious attacks on the speaker. Volume and vigour in viewpoint expression is not proof of cogency or wisdom. It is a backward step, a sign of degeneration rather than progress, where incivility and vicious virtual assaults are embraced as a tactic to chill debate on the strength of an argument.

28.   Online Name-Calling Chills Speech and Degrades Democratic Debate: Insulting someone, calling them stupid, insulting their faith (e.g. some homosexual activists have called people who oppose the homosexualism agenda who they identify as 'Christian' "stupid" and "homophobic" and "fundamentalist"– which poses a new threat to social and religious harmony. Such activists are of course oblivious of their own intolerance, fundamentalist close-mindedness and hate; they engage in the strategy of online name-calling to distract attention from the radical quality of their agenda – how does this promote democratic debate, where reasoned argument is caricatured as unworthy of attention by being labelled as "stupid" or "religious" or "conservative" without evaluating their merits. Insulting the views of people with religious convictions is a new flashpoint for social tension and is contrary to inclusive and participatory democracy where the merit of an argument and not the identity of the speaker is the focus of attention. In a democracy, our arguments stand and fall by their ability to persuade listeners as we all share in the common life of our nation. I might add that there is no neutral stance on this issue as everyone subscribes to some form of ideology – it is impossible to be agnostic on this count. Either we evaluate all views, or we censor some views. Which promotes democratic and reasoned

debate?

29. Democracy and Authentic Debate: In a democracy, all views should be heard, respectfully, civilly (law per se cannot ensure this, education and example must) and Singaporeans will need to learn how to agree to disagree on controversial moral questions if we wish to cultivate a participatory democracy which is serious and issue-focused, rather than given to theatrics, hysterics and venomous attacks. Disliking the views of someone is no justification for attacking the character of the speaker and seeking to get them to lose their jobs or to chill them by intimidation and vilification. There is no licence to defame, harass or intimidate in Singapore just because a view is expressed online.

30. Truth over Misinformation; Civil Disagreement over Vicious ad hominem Attack: Therefore, political speech (speech in relation to public affairs) which does not serve truth or democratic debate by putting forth misinformation or by attacking other speakers to effect personal and professional character assassination should be strictly regulated by law. There is no human right to misinformation, as the English House of Lords observed in Reynolds v Times Newspaper where Lord Hobhouse observed that the liberty to communicate relates to the communication of "information[,] not misinformation", as "[t]here is no human right to disseminate information that is not true. No public interest is served by publishing or communicating misinformation. The working of a democratic society depends on the members of that society, being informed not misinformed. Misleading people and the purveying as facts statements which are not true is destructive of the democratic society…[201]

31. Law and policy in Singapore must take into account the evils of misinformation in undermining democracy and harassing / intimidatory speech in chilling citizen participation in public debate and life. Self-regulation has failed; there needs to be some external mechanism of control to ensure reputation and honour is safeguarded adequately, to protect citizens from abusive harassment and criminal intimidation and to dissuade the demonization of those who hold opposing views, in favour of an issue-focused approach to public debate. We must learn to express our views and convictions clearly, even forcefully in the public square, and to disagree with our opponents with civil respect; where these social norms are breached, there must be legal redress where rights have been violated and real harm has been done to preserve the quality of democratic debate as well as basic norms of decency which inform any civilised society.

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201 [2001] 2 A.C. 127 at 238.

Conclusion

32.   The AIMS paper calls for an open mind; but an open mind, like an open mouth, must eventually close on something. In revisiting internet regulation we should reaffirm the good, discard the bad, ensure all interests and rights are fairly safeguarded, promote civility and intellectual honesty in public debate, reject anti-social online behaviour and endorse democratic values to buttress the democratizing effect of the internet as a platform for ideas and alternative views which can enhance public debate by providing accurate information and critical perspectives ignored by mainstream media. Only then will expressive rights and communal values both be vindicated, in service of the common good. This, the AIMS recommendations must highlight. We need a steady anchor, even as we sail into new seas, if we are not to lose our bearings.

8. Received: 3 October 2008

First, I would like to applaud the establishment and purpose of AIMS as undoubtedly the growth of internet communication and the easy access to information therefrom (whether accurate or otherwise) have far reaching effects and consequences.

On the issue of whether there should be laws governing the internet, I would agree that whilst it would not be to feasible to have legislation in place to guard the daily goings-on of internet usage, there should definitely be some form of regulation. Perhaps the setting up of a watchdog body, who would be able to issue directives and deal with issues and complaints etc, with the ability to bring matters up to the relevant Minister if necessary. This is so that whilst it is recognised that the public should be able to have an arena to air views, it should not be an arena where vindictive or threatening email or the spread of information which is contrary to the interests of the public should be allowed to carry on unchecked.

As for the protection of minors, one cannot overemphasise the dangers from internet usage. This is a massive task in light of the easy access to internet materials and I would agree with the proposed approach of volunteer groups. Perhaps what could be looked into further would be educating the public (through the media, e.g., TV and the radio), parents as well as having the schools educate the students on this.

Turning now to communication between the public and the Government, whilst the number of internet users is on the rise, I believe that there are still Singaporeans who are not internet savvy. For these people, communication through the usual medium, e.g., the newspaper, feedback through grassroot leaders, would still be very important. So, notwithstanding the rise of the e-communication, these people should not be forgotten.

9. Received: 2 October 2008

I strongly reject the idea of not regulating the Internet laws.

As a parent, I strongly urge the Government to help us to police the Internet, to put in measures to protect our children's minds.

Our young people are spending longer hours these days on Internet. How can something that has the power to shape our children's minds and influence their lives be given free access? Imposition of legal controls should not be avoided at all costs.

In your report, there is this argument that says. "Nature of the Internet is borderless and therefore difficult to enforce the laws regulating Internet, as such the arguments that we should avoid trying to regulate the 'unregulable'".

We enforce traffic laws to ensure the pedestrians' safety.

My argument is this: Even crossing a road needs some form of controlling. We enforce traffic laws to ensure the safety of the road-users. Pedestrians and drivers are expected to follow such rules. Should we stop enforcing traffic laws since there are still traffic accidents? Should we then conclude that traffic rules are non-essential?

In your Consultation Paper, under "The guiding principles of AIMS" reads...

"AIMS recognises that the Laws are still important."

I agree with you totally. Crossing the road without observing the safety rules is deadly, so is the high risk of harm if we do not protect our minors from harmful online materials. We definitely do not want to see our children exposed to illegal and inappropriate materials. There should be legislation to protect Singaporeans from racist, hate speech, advocate values and agendas. We should not allow any access to anyone who have the intention to promote values that are contrary to Singapore's family values.

Therefore, I urge the Government to take active steps to ensure that restrictive measures are regulated. Imposition of Legal controls should not be avoided.

10. Received: 2 October 2008

From: Brenda Tan

I've read and concur with the recommendations on the measures to be taken for protection of minors. I agree that education is key however this should work hand in hand with other measures such as filtering resources as well as more research since technology is moving at such a rapid speed. Setting up an annual fund for the protection of minors is an excellent idea. I fully agree that we need a coordinated approach to this. A dedicated agency is required. Each party can only do things in piecemeal but a coordinated effort will help reinforce the

message at all angles. I however do not agree to lift the ban on the 100 ban sites. I agree that we need to continue to send the symbolic message that our society will not tolerate or condone these sites and content.

11. Received: 1 October 2008

From: David Tay

I wish to log the following views on the AIMS' CONSULTATION PAPER and its recommendations:-

AIMS' has done a credible job in its review and recommendations. While I agree with some of its recommendations, there are some that should not be implemented as suggested.

On E-engagement (recommendation 4d), it is valuable to engage the digitally-savvy. However, I believe that it does not serve Singapore's interests as a whole to have a panel that comprises only of young digital natives as a consultative panel. Wisdom is not the domain of the young, and the breadth of their experience and their interest in the concerns of their fellow Singaporeans is limited. Technical advice on new media is not necessarily the domain of the young either. If there is to be an engagement of such individuals, there should be clear limitations on terms of service, a release of the individual's background/cv to the public, and the public must have a clear channel to reject nominations of individuals to such panels - i.e., such panels are not places for lobbying of vested and personal interests in disrespecting other Singaporeans.

On protection of minors (recommendations 7), there is increasing concern and action against pedophilia and sexual grooming via the Internet in countries such as Australia. Sexual grooming exists in many forms including new media content masquerading as sex education for the young, and propagation of alternative lifestyles such as homosexuality, lesbianism, bisexualism, same sex or bi-sexual partnerships contrary to Singapore's family values.

The government must have active tools to take action against such perpetrators, and must embed a sense of strong family values into its new media toolkit. The government must retain legislative tools to deter and punish perpetrators.

Further to recommendation 7b, parents/fathers/mothers volunteer groups should be the primary resources to be engaged in close scrutiny of all sex education courses or seminars in schools.

On 7e, it appears that AIMS is implicitly lobbying for funding, recognition, and opportunities to leverage on overseas counterparts. It does not appear to be a problem for civic groups to collaborate today, except where the topics are controversial and where solutions are disputable, nor does it appear to be a problem for the government to seek suitable inputs from respectable agencies overseas. Any engagement of overseas groups must keep Singapore's greater good in mind - family values, public morality and order, religious and racial

harmony. The government should maintain this line.

On 2d & 7f, the government should encourage representation across the heartland of Singapore, and facilitate community awareness at grassroots level. The measure of effectiveness is not in reaching the net-savvy middle class or in new media activists, but in increasing the participation rate of the net-unsavvy, and in supporting heartlanders in better nurturing their children, and in preparing such heartlanders for enhanced social engagement.

On 7l, I disagree that the ban should be lifted. Rather, I believe that community monitoring from Singaporeans concerned over the state of the family and the direction that family fabric is headed, should result in the continuation of a ban, and a ban that is extensible to as many websites as are identified to be detrimental to minors. Ban more than 100 websites. That net-savvy netizens can bypass specific bans is not a reason for Singapore to remove its clear OB markers on morality and to reduce its support for family formation. Communities such as the National Family Council can serve as the channel on websites to be banned/ restricted by Singapore on account of protection of minors.

On online defamation and immunity (8,9), the onus of proof should be on the complainant that any objectionable content is truly objectionable. This applies to areas/materials that are not already specifically identified as objectionable (eg porn). In view of the potential for disputes, the government should consider enacting an equivalent mechanism to the Small Claims Tribunal to facilitate the receipt of complaints and provide an opportunity for complainant, content creator, and network service providers to resolve the bases of dispute, without excessive bias towards the complainant or excessive burden on the complainant to remove frivolous assertions. The mechanism would facilitate a neutral record and process of resolving such disputes, with the put-back regime an integral part of this practice.

12. Received: 30 September 2008

From: Jacelyn Chan

While I agree with AIM's recommendation that there should be a focus on education (through the development and dissemination) of educational courses and materials for minors, their parents, guardians and educators to ensure that minors are protected from the risks associated with the use of the internet, I am of the view that more can be done in terms of protecting minors from being exposed to sexual grooming through the Internet and new media, through the imposition of laws that provide for the imposition of severe penalties on those who sexually groom minors through the Internet and the new media.

AIMS' recommendation that there be an increase in the utilization of filtering resources such as the Family Access Network (FAN) service by promoting greater accessibility to such services through the use of government funding to absorb the monthly charge per month is a step in the right direction. However, AIMS should

consider whether subscription to the presently optional FAN service should be made mandatory for Singaporean households with children who are below the age of 12 in order to protect younger children, who as AIMS has observed, are "not mature enough to fend for themselves".

While such filters may not be as effective in protecting older children from the harmful content that is easily available on the Internet and the new media, it would certainly be useful in preventing younger children from getting their hands on such content (whether advertently or otherwise). It is alarming to read that children are using the Internet from a young age and that some children who regularly access the internet are between the tender ages of 3 and 5. All reasonable steps should be taken to protect such young children from being exposed to undesirable and harmful content on the Internet.

AIMS has also recommended that a spirit of volunteerism be fostered by encouraging groups like TOUCH Community Services and the former Parents Advisory Group for the Internet (PAGi) to get involved in fighting cyber crime. While volunteer groups like PAGi certainly have an important part to play in monitoring the Internet and new media and fighting cyber crime, the Singapore government /society cannot abdicate its responsibility for the protection of minors and place such a grave responsibility on such volunteer groups to police the Internet and new media.

Instead, the government should consider (as an addition to, and an extension of the recent Penal Code amendment , Section 376E, which stipulates that it an offence of sexual grooming is committed if any adult aged 21 and above has contacted a minor under 16 on 2 or more occasions and meets or travels to meet the minor with the intention of committing a sexual offence with the minor. No harm has to actually befall the minor for the adult to be found guilty of the offence.) criminalizing sexual grooming on the Internet through the propagation of Internet / new media content that promote undesirable alternative lifestyles, such as homosexuality, lesbianism, bisexualism and same sex partnerships that are targeted at minors. Individuals and/or organizations who are responsible for posting such content on the Internet/new media with the aim of sexually grooming minors under the guise of sex education should similarly be subject to penalties under the law for such reprehensible conduct.

The government should also consider banning or at the very least, restricting access to local websites that promote sexual liberalism, and which are specifically targeted at minors, who are especially vulnerable. Although blocking all undesirable websites is clearly not feasible, the government can take some precautions to guard against paedophilia and sexual grooming at home by blocking access to local websites, which are in more immediate proximity to and therefore may be more harmful to minors, since adults can use such websites to exploit / target minors locally through the use of chat rooms or posts on such sites.

13. Received: 30 September 2008

From: Isaac Quek

I favour more regulation, not less and believe that laws that protect the people, (especially minors) would benefit future generations in safeguarding our culture.

I absolutely against these things being promoted on our internet and in our country: the creation of any content that promotes 1) blatant and rampant sexual promiscuity, 2) an alternative homosexual lifestyle 3) gratuitous violence 4) the communication of mis information and promotion of anti-familial messages (such as abortion).

I strongly believe that the promotion of the above into the culture by the powerful means of the internet, and its consequent effect on our culture can only mean the decline and erosion of what are good and sound morals - and family values. Values such as abstinence before marriage, the loving, loyal and lasting marriage relationships, and loving responsibility in parenting will only be compromised.

If we allow these things to enter into the mind and heart of the culture (particularly if we allow these to mould the minds of the teenagers) we can only expect increasing divorce rates, a culture that seeks immediate self gratification, and the breakdown of the family unit which is already weak in our day. Content that promotes good parenting, responsibility in childrearing (and not promiscuity and abortion) should alternatively be promoted and rewarded.

I am for the freedom of the next generations to grow up in loving family environments. I do not think that the freedom to publish and promote "whatever-("any and every") form of content can be or should be granted as to be a given as a right - because this will infringe upon our children who cannot defend themselves or speak- therefore it is the duty of a good government and the laws it enacts to protect the young, impressionable and defenceless against everything that infringes upon their freedom to enjoy a stable and sound family.

As I believe that our government is for the family and for family values being restored and promoted, I am speaking up. I hope these views will be considered.

14. Received: 23 September 2008

From: Gerald Giam

Mr Cheong Yip Seng
Chairman
Advisory Council on the Impact of New Media on Society

FEEDBACK TO AIMS' CONSULTATION PAPER

1   On 29 August 2008, the Advisory Council on the Impact of New Media

on Society (AIMS) released a consultation paper to gather feedback from the public on its proposed recommendations to the Singapore Government on engaging new media.

2   This paper is my feedback to AIMS' consultation paper. They are my personal opinions and do not necessarily represent the views of any groups or organisations that I am affiliated with.

3   The responses are grouped according to the chapters in AIMS' consultation paper.

Chapter 1: E-engagement

4   There needs to be a paradigm shift in the Government's thinking regarding e-engagement. As a general approach, instead of pouring money and resources into only building its own online platforms (e.g., REACH portal), where it tends to only preach to the choir, the Government should venture out to engage the "unconverted" on the latter's turf. This was rightly pointed out in AIMS' paper.

5   The Government may need to be selective about which areas it ventures into. The vast majority of bloggers who do not write about political issues would not appreciate it if a government official posts a comment "correcting" them for inaccuracies in their blog postings. However there are a few serious political bloggers who would appreciate a response to their ideas and suggestions, even if it comes in the form of a robust rebuttal from the Government.

6   Government representatives could respond by posting a comment on a blog post, or contributing full article response to the same blog. Serious blogs would be happy to grant the right of reply to the Government or any other party.

7   It would be preferred if politicians and government officials engage in their "personal" capacities — meaning there is no need to parade one's full designations, titles and ministries when posting a simple comment on a blog. Blogosphere is an egalitarian society where the quality of one's ideas counts more than the titles one carries.

8   Civil servants should be allowed to comment on policy matters outside the purview of their ministries, as long as they do so in their personal capacity and they do not divulge classified information. They should not be required to seek their permanent secretaries' approval before speaking or writing to the media (including online media) on matters that does not directly concern their ministry.

9   The Information Ministry is already actively monitoring blogs and Internet forums. The Government should acknowledge some of the good ideas that are generated online, instead of constantly implying that serious

political discussion is absent from the Internet.

10   E-engagement, if executed selectively and sensitively, could cause bloggers to be slightly more circumspect in expressing themselves on their blogs. This is not necessarily a bad thing. Internet experts have highlighted that "people are more polite when they know you are listening"[202].

11   The Government should consider issuing press releases, releasing embargoed papers or speeches to citizen journalists, and inviting citizen journalists to cover press conferences and official events. Credible socio-political blogs could be issued press passes like the Malaysian government did for Malaysiakini and other online media.

12   This is a good way to encourage citizen journalists to firstly, report rather than simply comment from a distance; and secondly, to provide fairer and more balanced coverage.

13   Ministers and senior officials should not be reticent in granting interviews with credible online media if asked.

Chapter 2: Online Political Content

14   Section 33 of the Films Act, which bans "party political films" outright, is an ill-conceived and unnecessary law. Various arguments have been put forward by the Government in support of the law. Most centre around the possibility of a "freak election" result due to a "scurrilous" video being released a few days before Polling Day.

15   There is no evidence anywhere in the world of an freak election result simply due to a false and malicious video being released in the last few days of campaigning.

16   Any falsehoods or misrepresentations can be dealt with using the existing Penal Code, Sedition Act or Defamation Act. Furthermore, with its unfettered access to the mainstream media, the Government can easily refute any false allegations, even if they are made at the eleventh hour.

17   The goal of keeping election costs down[203] can continue to be achieved by current election laws which limit the amount a candidate is allowed to spend on each voter.

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202 "Naked Conversations: How Blogs are Changing the Way Businesses Talk with Customers" by R. Scoble and S. Israel.

203 In an interview with Channel NewsAsia on 9 January 2007, Foreign Minister George Yeo said: "I was responsible for that piece of legislation when I was in MICA not to allow political videos and films. We did not want politics in Singapore to be trivialised and so commercial where it all depends on packaging and how much money you are able to put into producing a programme. So we decided keep it simple, keep it cheap…We did not reckon this new media which allows you to produce the programmes quite cheaply. So I think we've got to adjust that position."

18   In addition, the Parliamentary Elections Act could be amended to require any party political films to clearly state the sponsor of the video, as is required in the US, Australia and other developed countries. This will provide viewers a frame of reference to judge the partisan nature of the video.

19   Most importantly, we should not underestimate Singaporean voters' ability to discern what is true and what is false and malicious.

20   AIMS has proposed a compromise "blackout period" whereby no new political videos can be released during the election period. A blackout period will take things back almost to square one. It will hamper political parties' ability to communicate with the electorate during the most critical period when voters are making up their minds.

21   Even if there is a blackout period or if Section 33 remains on the statute books in its entirety, there is nothing stopping someone from uploading a "scurrilous" video to YouTube (or any of the dozens of video sharing sites). The fact that it is "prohibited content" would make it even more attractive to watch.

22   While I applaud AIMS' attempt to push the boundaries by proposing a relook, and possible repeal of the law, I believe that anything short of a complete repeal of Section 33 of the Films Act would be disappointing to many thinking Singaporeans.

23   Separately, Section 35 of the Films Act (Minister may prohibit possession or distribution of any film) should be also be repealed. This is an omnibus law which gives the Minister absolute discretion in banning a film. If left in place, it would render any repeal of Section 33 meaningless. It should be noted that Section 15 (Prohibition and approval of films for exhibition) already empowers the Board of Film Censors to ban films.

24   I fully agree with AIMS recommendations regarding Internet election advertising and removal of the registration requirement in the Internet Class License Scheme.

25   In addition, election candidates and political parties should be allowed to solicit and accept donations over the Internet without overly stringent requirements to verify the identity of donors.

Chapter 3: Protection of Minors

26   Requiring ISPs to provide filtering in the form of Family Access Networks (FAN) on an opt-out basis is better than nothing. However FAN could give a false sense of security to parents who think that filtering provided by ISPs is going to filter out all undesirable content.

27   In fact, FAN cannot filter out a very large portion of undesirable content.

At the same time, it could end up filtering content that the adults in the family may wish to view. For example, adults doing research on terrorism, drug abuse or gay issues could encounter blocked pages when using FAN.

28   It is much more effective to encourage parents to install Internet content filtering software on their home PCs[204]. While PC-based filters do not filter out everything, they provides several advantages over FAN:

    a.   Access logging. Parents can view all the websites that their children access by checking the logs recorded by the software. If the child knows his parents are monitoring what he is surfing, he is much less likely to access sites he knows are out of bounds to him. Some software packages are able to email the daily log reports to parents.

    b.   Designating access time. Most filtering software allows parents to set the time in which the Internet can be accessed.

    c.   Auto lock out. The software can be configured to automatically block Internet access to the child if undesirable websites are accessed too many times.

    d.   Turning off filtering for adults. Parents (who have the password) can turn off filtering and logging so that they themselves can have full access to the Internet.

29   All this requires training for the parents. For parents who are IT savvy enough or are willing to learn, this provides the best method of regulating children's access to the Internet and preventing them from accessing undesirable material.

30   For other non-IT savvy parents (who make up the vast majority of parents), there needs to be a concerted programme of parental education and awareness building.

Chapter 4: Intermediary Liabilities

31   I fully support AIMS recommendations in Chapter 4.

Summary

32   The following is a summary of my proposals:

    a.   Engage Netizens on their turf, not the Government's.

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204 Filtering software includes Optenet, Cyberpatrol and NetNanny.

b.   Issue press passes and press releases to serious socio-political websites.

c.   Allow civil servants to blog about policy issues.

d.   Allow online political donations.

e.   Completely repeal Sections 33 and 35 of the Films Act.

f.   Encourage parents to install filtering software on their home PCs.

g.   Educate parents on the use of such software.

33   I hope AIMS will consider these proposals in its final report to the Government

15. Received: 20 September 2008

From: Pritam Singh

One question that comes to mind is whether the executive or the legislative representatives are expected to e-engage more? The executive should be encouraged to post more information online and respond quickly to requests for information and the like – I think this is something it is doing well although there continues to be space for improvement.

The more pressing quandary appears to be greater participation of the political leadership online. I would opine that there is a perceptible hesitance of the political leadership to deal with public grouses in a larger way. From my vantage point, this problem is not unique to the online medium. Ultimately, e-engagement might well end up becoming a one-way top down exercise given the political and legal realities in Singapore, one that reinforces the message of the government rather than encourages a bottom-up state of affairs that is envisaged.

A corollary point to be made about e-engagement revolves around AIMS' specific recommendations. I think AIMS has acted in good faith in seeking to alert the government to a variety of courses of action to buttress e-engagement. I like the idea of young digital natives but hope it won't be overloaded with the children of Young PAP or PAP members hoping to "network".

- Regulation of online political content

On the regulation of online political content specific to Section 33, my thoughts are clear. I am not sanguine about any prospects of the independence of an "independent body" - it will end up having to function like PTC, suffering brickbats for every decision that is overruled in the court of public opinion. The only way to move forward is through a complete repeal, with the caveats on a "blackout period" (Option 2[c]) as recommended by AIMS. It's not perfect, but it is a more evolutionary proposal as far as Singapore's political process is concerned.

In fact, should this recommendation not pass muster for whatever reason (I am curious how a movie like Seelan Pilay's One Nation under Lee would be received), I would state that a classification rating system should not be dismissed. A simple R21 rating without the "political" in parenthesis could be an option. It would be in line with one of AIMS' conclusions of proposing some restrictions as opposed to none, and a "free for all" on the other hand.

On the Class Licence Scheme, the concern seems to be that the current state of affairs remains a tacit compromise that could be reversed in spite of the commitment to a "Light Touch" policy. However as this state of affairs is dependent on a benevolent and thoughtful government, AIMS' proposal to remove the registration requirement is legally progressive.

On the protection of minors and intermediary immunity for online defamation

On the protection of minors and intermediary immunity for online defamation, AIMS' recommendations are encouraging. However, a point needs to be made about the ban on the 100 websites.

There is a high opportunity cost to be paid by government should it rescind on its decision by accepting AIMS' recommendations. What would a lifting of the ban do to its stated position of symbolism viz. its moral code? It would logically have to go down a slippery slope where the symbolism of Section 377A is called into question as well. Now that I draft this, AIMS' recommendation may not be a bad idea after all! But the government's concerns will remain unaddressed, and I am divided over the 100 website ban, in all honesty.

- Other concerns

Para 1.14 – "But it should be noted that there is a difference between being heard and being watched. Netizens want to be heard not watched." This point is repeated in para 3.58.

I found this inclusion in the paragraph rather curious, as I was not sure how the conclusion led from the first sentence. I am not sure its inclusion accurately reflects the conduct of netizens. Why should not there are some who would indeed prefer to be watched like budding politicians, entrepreneurs or otherwise, even if they form a small percentage of online citizenry? But critically, the comment in para 1.14 and 3.58 stand in opposition to a part of the spirit of AIMS, which is to exploit to the Interactive Digital Media.

2.8. – "Whilst many participants are well informed and thoughtful, there is no 'quality control' in the new media. All voices have equal opportunity to be seen and heard."

I think its well understood what is meant by "no quality control", but its usage in the context of para 2.8 is rather prejudicial to net users. By extension, this opens a real pandora's box of other issues – some may suggest the mainstream

media has "no quality control" either – a point that can be made rather easily in some cases, with a final round of arguments focused around the term "quality". More pertinently, the nature of the internet as a platform hardly allows for "quality control" – but fundamentally, one could make a case that it is not the function or purpose of the internet to do this. AIMS may be seen to be more balanced if it desisted from suggesting "no quality control", but explain that the ubiquitous nature of the online space engenders varied standards of quality.

16.   Received: 4 September 2008

1. On your recommendation for government to pursue e-engagement, sounds good in general since government cannot totally ignore the growing influence of new media especially among the youth. This brings me to my point, since it will basically cater to the young, what about other segments of society that have no knowledge and access to new media? Despite the existence of other channels of communication with the government, these may not exactly do the job (it was cited in the report that gov't usually dictates the agenda etc etc). So there is concern that this e-engagement drive will still alienate a substantial portion of the community.

2. On the matter of political content - there are some problematic statements such as in 2.25...'balanced online political discussion while minimizing the adverse effects that such changes could bring.' It's also quite unrealistic because for one, what is considered a 'balanced' online political discussion by the government? Second, one knows that for this to happen, you can expect changes, and if the government were to minimize what is considers 'adverse' effects, then it wasn't prepared to have a democratic political discussion in the first place. So all in all, it doesn't sound convincing. In the same vein, in 2.41 and 2.42 paragraphs, where you talk about the mainstream media, and a well-informed citizenry, this again poses some problems since the mainstream media as we know it is state-run media, so this may not seem again realistic. Although i have to say that removing the registration requirement for individuals who go online is one small step to provide other/alternative sources of information. It all depends though on the extent to which government will allow this to flourish.

17. Received: 31 August 2008

From: Terence Lee

When it comes to Section 33, a gradual repeal is the best measure. The other measures are fill with possible caveats that would impede freedom of expression.

Also, I find that one thing is missing: implementing media literacy in schools.

The MOE should implement compulsory media education in schools and tertiary institutions to better equip students to be responsible and discerning media consumers.

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