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INTERNET CODE OF PRACTICE

June 1999

[CoP Development and Feedback Notes](#)

If you wish to become a Signatory to the Internet Code of Practice please print this page and complete the [details](#) below and post to:

InternetNZ (formerly The Internet Society of New Zealand Inc)
PO Box 11-881
Wellington

Please keep a copy for your records.

The Internet Code of Practice

1. INTRODUCTION

Aims of the Internet Code of Practice:

- To ensure the fairness and accuracy of disclosure of business terms and conditions to the user public and community in general;
- To improve the standard of conduct within the industry;
- To provide public access to complaint handling and cost-effective redress mechanisms;
- To impose and regulate industry standards;
- To improve customer relations;
- To protect rights of access and free speech;
- To ensure that information and procedures are in place for the protection of minors from accessing objectionable material over the Internet;
- To ensure that the information and procedures are in place so Internet users know how to limit access to protect a user from accessing inappropriate or objectionable material

1.1 WHO THE INTERNET CODE OF PRACTICE APPLIES TO

For the purposes of this document:

- an ISP is defined as a person or organisation, who for commercial or non-profit reasons connects a user/users to the Internet, provides content (electronic commerce or other) over the Internet, or provides access to the Internet.
- a user is defined as a person or organisation which has a connection to the Internet, and which may optionally provide content either locally or hosted by an ISP

1.2 COMPLIANCE

All members of the Internet Code of Practice will:

- Include in each of its agreements with customers and users a provision strongly recommending that their customers and users within New Zealand comply with the Code;
- Include in an obvious location, a statement of support by the ISP of the Code of Practice and immediately adjacent a direction to the Code of Practice document;
- Provide a link to the Internet Code of Practice Home Page which provides information to the client about their rights under the Code.

1.3 INDUSTRY AWARENESS

Members of the Internet Code of Practice must require their employees and agents to operate within the guidelines of the Code.

2. CODE OF CONDUCT OF ALL INDUSTRY MEMBERS

2.1 MEMBERS OF THE INTERNET CODE OF PRACTICE WILL:

- Act in accordance with high standards of ethics and integrity;
- Provide for each customer and potential customer particulars regarding who the business is including the physical office, contact telephone number and facsimile number;
- Ensure that all advertising complies with Advertising Standards Board guidelines;
- Take all practicable measures to protect the confidentiality of customers' information

2.2 MEMBERS OF THE INTERNET CODE OF PRACTICE WILL NOT:

- Inaccurately represent the benefits of their product or service
- Engage in conduct that is misleading or deceptive

3.CONDUCT OF ISPs

3.1 ISP'S WHO ARE MEMBERS OF THE INTERNET CODE OF PRACTICE

WILL MAKE AVAILABLE TO EACH CUSTOMER:

- A Copy of the Internet Code of Practice upon request;
- Full disclosure of all charges and terms of trade, and description of services, relevant to the service being offered prior to reaching agreement with customer. The information will be provided in such a format that a lay-person can easily understand the actual and ongoing costs which may be incurred. A customer who then agrees to use the service agrees to be bound to these terms;
- Information about dispute resolution should be easily located by customers;
- Information regarding whether forums provided by the ISP are moderated or unmoderated;
- Redirection of service facilities for a reasonable time and at reasonable cost to clients who change to another ISP.

3.2 INTERCONNECTION

In acknowledgement of the co-operative nature of the Internet, all members of the Internet Code of Practice who provide Internet Access services agree to the principal of unrestricted and open interconnection between members.

3.3 BLOCKING

Members of the Internet Code of Practice agree that blocking traffic from other parts of the Internet disrupts the integrity of the Internet, and should only be carried out in circumstances where it cannot be avoided. All other non-urgent circumstances such as disputes should be resolved using the Internet Code of Practice dispute procedures.

3.4 CONTENT

The Internet provides for a significant amount of free-speech between citizens, and this is protected by statute in many countries. The Code proposes that all Internet content within New Zealand be subject to the New Zealand Films, Videos and Publication Classifications Act, 1993. A subsection of the Act applicable to this is included in Appendix B.

3.5 COMMERCIAL AND PUBLIC SITES

3.5.1 Commercial and public sites who are members of the Internet Code of Practice will ensure that the client is informed

- Whether the commercial or public site takes responsibility for content as publisher or whether the service it provides is merely as a carrier of the client's content;
- Commercial and Public Sites who are members of the Internet Code of Practice will work towards and support the adoption of a system of content recognition, related to educational/children's services and the use of tags in advertising or directories as suitable for children.
- Of Code of Practice requirements when hosting content on the client's behalf

3.5.2 Commercial and public sites that are members of the Internet Code of

Practice will ensure that adult services hosted are:

- Classified in accordance with a commonly used classification system such that users may reasonably be able to exclude unwanted material. (One system known as PICS is described in Appendix A); AND
- Content will be accompanied by suitable on-screen warnings on the home or title page; AND/OR
- Managed by subscription enrolments to exclude under-age subscribers.

3.5.3 Commercial and public sites who are members of the Internet Code of Practice will work towards and support the adoption of a system of content identification related to adult services.

4. CONFORMING TO INTERNET STANDARDS (RFCs)

All members of the Internet Code of Practice must conform to accepted international Internet standards such as those set out by the RFCs.

4.1 CUSTOMER EDUCATION

Where ISP's are dealing with non-commercial customers or users:

- a. ISPs have a responsibility to inform parents and other responsible people of options and precautionary steps they can take to ensure that vulnerable groups are protected and to monitor usage.
- b. All members of the Internet Code of Practice will make available a URL link to material which is of use in educating the Internet user and guardian, including software and directions for purchasing such to help protect minors from accessing objectionable material over the Internet.

4.2 DISPUTE RESOLUTION

Each member of the Internet Code of Practice will comply with the following dispute resolution procedures:

- When a dispute arises between the Industry Member and its customer, the complainant shall be asked to set out in writing the nature of the dispute;
- Both parties will make every effort to resolve the dispute by negotiations;
- If the parties are unable to reach a resolution of the dispute, either party may, by notice in writing, advise the other party that it seeks to have the dispute resolved by mediation or arbitration. If either party nominates arbitration rather than mediation before a mediator is appointed, the matter shall be arbitrated.
- If the parties cannot agree on an independent arbitrator they may refer the matter to the Internet Code of Practice Complaints Board (See Appendix C)

has adopted the Internet Code of

_____	Practice
_____	Signed
_____	Name
_____	Title/Occupation
_____	Postal Address

_____	Website
_____	Email address
_____	Date

APPENDIX A

Platform for Internet Content Selection (PICS) - a site classification system which allows designers to place content rating tags on their site. The system allows a graduated rating, so that for instance, a classical Greek statue which is naked may be rated differently to a photograph of an unclothed person having sex.

APPENDIX B

New Zealand Films, Videos, and Publications Classification, 1993

Below are sections taken from the above Act which the ISP should be aware of.

3. Meaning of objectionable [part of]

(1) For the purpose of this Act, a publication is objectionable if it describes, depicts, expresses, or otherwise deals with matters such as sex, horror, crime, cruelty, or violence in such a manner that the availability of the publication is likely to be injurious to the public good.

(2) A publication shall be deemed to be objectionable for the purposes of this Act if the publication promotes or supports, or tends to promote support of:

(a) The exploitation of children, or young persons, or both, for sexual purposes or

(b) The use of violence or coercion to compel any person to participate in, or submit to, sexual conduct; or

- (c) Sexual conduct with or upon the body of a dead person; or
- (d) The use of urine or excrement in association with degrading or dehumanising conduct or sexual conduct; or
- (e) Bestiality; or
- (f) Acts of torture or the infliction of extreme violence or extreme cruelty

123. Offences of strict liability relating to objectionable publications. [part of]

(1) Every person commits an offence against this Act who:

- (a) Makes an objectionable publication; or
- (b) Makes a Copy of an objectionable publication for the purpose of supply, distribution, display, or exhibition to any other person; or
- (c) Supplies, or has in that persons possession for the purpose of supply an objectionable publication; or
- (d) For the purposes of supply to any other person, distributes, displays, advertises, or exhibit an objectionable publication; or
- (e) In expectation of payment, or otherwise for gain, or by way of advertisement, distributes, displays, exhibits, or otherwise makes available an objectionable publication to any other person; or
- (f) Delivers to any person an objectionable publication with intent that it should be dealt with by that person or any other person in such a manner as to constitute an offence against this section or section 124 or section 127 or section 129 of this Act.

(2) Every person who commits an offence against subsection (1) of this section is liable to a fine not exceeding,-

- (a) In the case of an individual, \$5,000.
- (b) In the case of a body corporate, \$15,000

(3) It shall be no defence to a charge under subsection (1) of this section that the defendant had no knowledge or no reasonable cause to believe that the publication to which the charge relates was objectionable.

131. Offence to possess objectionable publication. [part of]

- (1) Subject to subsection (4) and (5) of this section, every person commits an offence against this Act who, without lawful authority or excuse, has in that person's possession an objectionable publication.

(2) Every person who commits an offence against subsection (1) of this section is liable to a fine not exceeding:-

(a) In the case of an individual, \$2,000

(b) In the case of a body corporate, \$5,000

(3) It shall be no defense to a charge under subclause (1) of this section that the defendant had no knowledge or no reasonable cause to believe that the publication to which the charge relates was objectionable.

APPENDIX C

EITHER PARTY MAY NOTIFY THE CODE OF PRACTICE COMPLAINTS BOARD OF THE DISPUTE

- Within 21 days of the date of the notice the parties may refer the matter to a mutually agreed arbitrator or mediator (as the case may be). In the event that no agreement can be reached on an appropriate arbitrator, the dispute will be referred to an arbitrator or mediator nominated by the Council (to be appointed).
- The arbitrator will have the right to determine procedures and may or may not allow the appearance of lawyers on behalf of the parties and may co-opt other expert assistance.
- Arbitration of any dispute shall take place in accordance with any rules or directions published by the Council from time to time and the law of the state where the industry member is located.
- Nothing contained in this clause will deny a party the right to seek injunctive relief from an appropriate court where failure to obtain such relief would cause irreparable damage to the party concerned.

The Code of Practice was originally presented on April 15 1997 after a year of development work and was adopted by ISPANZ- the Internet Service Providers Association (now-inactive). The need for self-regulation by industry has grown, and the Code has been evolving over the last two years. Consultation with Industry has taken place on an ad hoc basis and this document reflects the last round of feedback.

The Code was re-launched on July 26 1999, giving the industry the chance to demonstrate to government and the public its commitment to high standards. The Code is not "set in concrete" and regular reviews by Industry will take place.

[Feedback](#) and comments from all sectors of the Industry are welcomed. We would also like to hear from Industry members who wish to join the Code Discussion list as part of the ongoing Evaluation and Review process.

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