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The Republic
of Vanuatu



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A Consultation Paper on Codes of Practice for Industry Co-regulation in the Areas of Internet Content.

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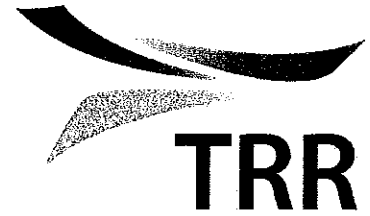
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2. TRR seeks to receive comments and feedback from all interested parties on the Consultation paper.
3. Clearly quote the corresponding main section and/or sub section of the paper when providing your responses.
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8. Comments should be submitted **before 4p.m. on 21 November 2012.**



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This document provides guidelines for Content Hosts, Content Providers and Internet Service Providers to promote the adoption of responsible processes and procedures for dealing with Internet Content issues.

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1. PURPOSE

This document sets out a proposed Internet and mobile Internet content Code of Practice (ICP).

TRR seeks feedback on the proposed ICP with the view to reaching a consensus from all stakeholders.

2. OBJECTIVES OF THE ICP

The ICP seeks to support the creation of a vibrant environment, in Vanuatu, for the Internet industry to flourish and the public to enjoy and use in a responsible and safe manner.

The ICP sets out the obligations of Content Hosts (CH), Content Publishers (CP) and Internet Service Providers (ISPs).

Recognising that:

- i. the Internet is an important communication medium as well as a source of information, education and entertainment and supports social and economic development ;
- ii. the Internet provides access to content that end users may not wish to be exposed to or may be harmful to them;
- iii. effective, practical and appropriate measures are required to empower Ni-Vanuatu to manage their use of the Internet;
- iv. Appropriate strategies are required for managing children's or minor's use of the Internet ;
- v. filtering technologies may be used by end users to filter content but these are not full proof;
- vi. to achieve the objectives and given the dynamic and open nature of Internet, good governance is best served through public education, industry self-regulation, minimum regulation and where required co-regulation.

The ICP seeks to:

- i. provide guidelines that promote CH, CP and ISPs adopting responsible procedures and processes for dealing with content to support legal obligations;
- ii. promote industry self-regulation when assessing the provision of Internet and mobile content;
- iii. promote reasonable strategies to protect Children/Minors from viewing unsuitable content;
- iv. promote and encourage end user confidence and uptake in the use of the Internet in Vanuatu;
- v. provide a transparent, fair and efficient end user complaints system in relation to Internet and mobile content.

3. DEFINITIONS & INTERPRETATIONS

Term	Definition
Content Host	The person, organisation or site publishing information available over the Internet.
Content Publisher	The person or organisation providing information to the CH.
Internet Service Provider (ISP)	An organization that provides access to the Internet. Access ISPs directly connect clients to the Internet using copper wires, wireless or fiber-optic connections. Hosting ISPs lease server space for smaller

	businesses and other people (colocation). Transit ISPs provide large amounts of bandwidth for connecting hosting ISPs to access ISPs. Hosting ISPs may offer such services as email-forwarding services, web-forwarding services and Internet News service.
Minor	A person under the age of 18 years.
Chain Letters	A typical chain letter consists of a message that attempts to convince the recipient to make a number of copies of the letter and then pass them on to as many recipients as possible. Common methods used in chain letters include emotionally manipulative stories, get-rich-quickly pyramid schemes, and the exploitation of superstition to threaten the recipient with bad luck or even physical violence or death if he or she "breaks the chain" and refuses to adhere to the conditions set out in the letter.
Hoax	Something that has been established or accepted by fraudulent means.
SPAM	Email spam, also known as junk email or unsolicited bulk email, is a subset of electronic mail involving nearly identical messages sent to numerous recipients by email.
Relevant Authority	A body authorised by statute, ministerial direction or parliamentary intent to adjudicate on matters relevant to Internet Codes.

4. KEY OBJECTIVES OF THE ICP

The ICP promotes the following key objectives:

- i. Support the development of the Internet as an important communication medium as well as a rich source of information, education and entertainment;
- ii. Support Internet Governance to be built on public education, industry self-regulation, minimum regulation and co-regulation which reflects community values;
- iii. Regulation being focused on the network and not on content;
- iv. Regulation being focused on public interest and not imposing unnecessary financial and administrative burdens on CH, CP and ISPs;
- v. Promotes technical neutrality;
- vi. Regulations which will readily accommodate technological change;
- vii. Support the commercial viability and is fair to all parties;
- viii. The responsibility of content to be made available on the Internet rests with content publishers, unless otherwise specified and agreed between relevant parties.

5. PROHIBITED MATERIAL

Prohibited material is material that is objectionable on the grounds of public interest, public morality, public order, public security, national harmony, or is otherwise prohibited by applicable Vanuatu laws.

Material considered **not** to be in the public interest in Vanuatu includes those which:

- i. depicts nudity or genitalia in a manner meant to excite pleasurably or erotically;

- ii. promotes sexual violence or sexual activity involving coercion or non-consent of any kind;
- iii. depicts a person or persons clearly engaged in explicit sexual activity;
- iv. depicts a person who is, or appears to be, under 18 years of age in sexual activity, in a sexually provocative manner or in any other offensive manner;
- v. advocates homosexuality or lesbianism, or depicts or promotes incest, pedophilia, bestiality and necrophilia;
- vi. depicts detailed or relished acts of extreme violence or cruelty;
- vii. glorifies, incites or endorses ethnic, racial or religious hatred, strife or intolerance.

Content may have intrinsic medical, scientific, artistic or educational value. Any party who is in doubt as to whether content would be considered prohibited may refer such content to the Relevant Authority for its decision.

6. OBLIGATIONS UNDER THE ICP

An Internet CH should:

- i. take reasonable steps to ensure that 'Prohibited or Restricted Content' hosted by the CH is not provided to Minors and that reasonable steps are taken to prevent access to Minors.
- ii. ensure information must be suitable for viewing by its target audience (e.g. the provision of indecent material via pages aimed at children is not acceptable).
- iii. encourage and promote the use of warnings and/or labeling systems in respect of Content which is likely to be unsuitable for Minors. Information which may offend will be provided with a warning or security mechanism to prevent accidental access to such information. Access to such information should require some form of action by the viewer which clearly indicates their willingness to view it.
- iv. encourage CH customers to inform end users about the Internet safety and security risks;
- v. check that links to external sites is not giving access to information likely to offend or enable viewing of unsuitable material.
- vi. include in their contractual obligations, acceptable use policies or customer service conditions compliance with Vanuatu law;
- vii. have in place clear procedures to deal with CH subscribers complaints regarding content.
- viii. have procedure in place for receiving takedown notices from the Relevant Authority (e.g. Ministry of Internal Affairs or a Vanuatu Court) and responding within a reasonable timeframe. This procedure includes informing the customer who placed the content on the CH's hosting database that the customer's content is the subject of a takedown notice and may be in breach of CH's contract and acceptable use policy.

An Internet CP should:

- i. take reasonable steps to ensure that 'Prohibited or Restricted Content' is not made available on the Internet to Minors. Information produced for publishing must be suitable for viewing by its target audience (i.e. the provision of indecent material via pages aimed at children is not acceptable).

- ii. encourage and promote the use of warnings and/or labeling systems to viewers especially in respect of Content which is likely to be unsuitable for Minors;
- iii. not to send, encourage, or contribute to Chain letters, Hoaxers or SPAM;
- iv. compressed data such that download times and bandwidth requirements are kept to a minimum;
- v. ensure that large images are accessed via a thumbnail or similar link such that users with slower connections receive a high level of service from the site;
- vi. ensure private data (such as email, network and postal addresses, telephone numbers, payment card details etc.) is not be disclosed to third parties without permission of the data subject;
- vii. not incite or promote illegal acts;
- viii. take a pragmatic approach to take account of international sensitivity and respect for all cultures.
- ix. ensure what is provided to viewers is legal, decent, honest and truthful.
 - i. ensure information will not deliberately or negligently mislead the viewer.

An ISP should:

- i. take reasonable steps to ensure that Internet access accounts are not provided to Minors without the consent of a parent, teacher or other responsible guardian/adult;
- ii. close an access account as soon as practicably possible from the date of being notified of a Minor holding the account;
- iii. encourage and promote the use of warnings and/or labeling systems in respect of Content which is likely to be unsuitable for Minors;
- iv. encourage CH and CP to inform end users about the Internet safety and security risks;
- v. ensure that usage policies and codes of practice are clearly displayed and are available to all subscribers to their services. New subscribers will be made aware of the code of practice and the method by which complaints will be handled, and provide information about how such complaints should be made;
- vi. ensure that compliance with the code of practice is a term of their contracts with subscribers and that the code is clearly displayed for subscribers to read before entering into those contracts;
- vii. have clear procedures in place for receiving takedown notices from the Relevant Authority (e.g. Ministry of Internal Affairs or a Vanuatu Court) and responding within a reasonable timeframe. This procedure includes informing the CH or CP who placed the content on the ISP's hosting service that the customer's content is the subject of a takedown notice and may be in breach of ISP's contract and acceptable use policy;
- viii. fully investigate, and take action against (if required), sites which complaints have been brought against to their attention. 'Action' may be a simple email warning, or for more serious or consistent breaches, discontinuity of service or (where necessary) legal proceedings;
- ix. not abuse client rights by covertly inspecting data or network transmissions unless strictly necessary.

-End-