

## *Regulation of Mobile Premium Services – Discussion Paper*

Submission by the Australian Council on Children and the Media (t/a Young Media Australia, or YMA)

### **Adult services**

These seem to include audio-visual content that has been classified MA or R (or would most probably be classified MA or R), and text services used principally for sexual gratification.

According to the discussion paper, carriage service providers will need to have staff trained in the use of OFLC's Guidelines for the Classification of Films and Computer Games, and adult services will need to use specific prefixes eg 195. However, children will still have unrestricted access to chat rooms and to M-rated material. There will be some monitoring of chat rooms, but no restriction on M-rated material.

YMA has reservations about this situation. M-rated material is by definition unsuitable for children. Even though it is legal for children to see it, structures still need to be in place to maximise parental control over children's exposure to it. M-rated material in other formats is inherently subject to such control: parents have some control over the films their children see at the cinema, the videos and DVDs they buy and rent to watch at home, the electronic games they rent and buy. They can also, if they wish, arrange things so that they can keep an eye on what their children access online. But parents have no control over what their children do on their mobile phones. Therefore it would be appropriate to provide such control at the supply end, allowing parents to opt in to such services if they deem it appropriate for their children.

YMA supports the proposal that X and RC classified content cannot be supplied by premium messaging services or any other service. We further support the potential involvement of the Classification Board.

However YMA also suggests that there should further public education about the risks and dangers of mobile phones and safe use of unrestricted chat rooms, informing parents that children may still have access to material that is classified M and PG.

### **Access to adult content is to be restricted to persons who are 18 +**

ACA has decided that an 'opt in' approach to adult services would be the most effective way to reduce risk to children, and is in proportion to other means of access to other adult services not available by way of mobile phone.

YMA strongly supports this approach, which accords with our previous suggestion that no services should be offered to children under 15, unless parents have opted-in to them. Those who have opted-in should also elect whether or not to receive further

information. Adult services could be advertised in publications that are not likely to be accessed by children providing that they comply with the default provisions in 4.2.

Any approach other than an opt-in one would institutionalise parents' temptation to take the 'path of least resistance' when buying phones for their children – that is, to accept the phone as is and hope for the best. Parents need more active support in this field, and the best support is to require the provision of the fullest possible information and an active decision on the part of parents as to what is best for their children. A mandatory opt-in structure will send important messages to all stakeholders about the gravity of the situation, and make it easier for parents to justify a cautious approach. It needs to be remembered that if any less restrictive structure turned out to provide insufficient protection, it would be very difficult to move to an opt-in system afterwards.

Carriage service providers will need to determine the age of their customer, and if they are over 18 whether the customer wishes to have access to adult content. A customer must indicate in writing that they wish to have access to adult content. YMA supports these measures.

## **Chat rooms**

Where it is likely or intended that chat rooms will contain adult content they are to be restricted to people over 18. Customers will need to verify their age and say they want to have the service.

Once again, YMA supports the opt-in structure, and other aspects of the proposed regime provided they are strictly enforced and subject to systematic supervision by the Authority. The age verification provisions in section 4.3 seem to ensure that carriage service providers take age verification seriously. In approving self-regulatory schemes the ACA should ensure that the scheme is equally as strong as the determination or stronger. The provisions in 4.3 should be a minimum for those carriage providers who have a self-regulatory scheme.

Other proposed provisions on chat rooms relate to moderation. YMA believe the qualities and qualifications of moderators are crucial to ensure the effective protection of children and young people. The provision in the determination that a moderator must be qualified (having received training in classifying material in accordance with the National Classification Code and the classification guidelines, and being able to identify practices of concern associated with paedophile activity) and over 18, have had a police check, and be qualified to make judgements about the appropriateness of the content posted on chat services should be the minimum standards.

## **Complaints**

The determination offers an option to carriage service providers to join a self-regulatory scheme or a default scheme. The default scheme is provided for in the determination. The ACA must approve the service providers' scheme before it is

adopted. There are core requirements in the determination, which must be followed, other details may be self regulated or the company can use the default scheme. The Telephone Information Services Standards Council is being considered as the complaints body for premium message services, and the ACA may have the power to review the decisions of that body.

These proposals are contrary to YMA's submission that government regulation is the best method.

Self-regulation (or co-regulation) is not working in the broadcasting field and there is no reason to think it will work in this field. Not only does it put the fox in charge of the chicken coop, it adds a layer of complexity and difficulty that ultimately restricts access by the community to effective review. YMA therefore submits that a body such as an amalgamated ABA and ACA should handle complaints. Such a body would have not only the necessary independence and public-benefit outlook, but also the necessary expertise to properly assess classification issues.

### **ACA's powers**

ACA has the power to issue a take down notice to providers that have breached the determination. They believe that the most common situations will be for material classified X or RC, or breach of the determination that ACA considers will cause serious harm to end-users.

YMA supports the vesting of such powers in the ACA (or, as mentioned above, its successor).

Thank you for the opportunity to make this submission. If you have any queries please contact Associate Professor Elizabeth Handsley, Vice-President of YMA, on (08) 8201 5256 or <Elizabeth.Handsley@flinders.edu.au>.