Advocating Online Censorship

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Using Sabatier’s Advocacy Coalition Framework, the development of the Broadcasting Services Amendment (Online Services) Act 1999 is presented. Introduced to control the flow of online content (especially pornography) into and within Australia, this policy area incorporates a mix of high technology, morality and commercial interests. Analysis of the development of the Act is presented over five periods that show: the activation and formation of competing coalitions; acquisition of information and arguments about what form (if any) government regulation should take; and the relative importance of the issue. Analysis shows a number of relatively stable advocacy coalitions formed rapidly in response to government moves for regulation. The stability of these coalitions was significantly influenced by short-term changes in regulatory technology and the nature of the political discourse used by the government which raised or lowered the ‘temperature’ of subsystem conflict. The article makes a number of methodological comments about the application of multivariate clustering to subsystem analysis.

Using Sabatier’s Advocacy Coalition Framework, this paper examines the dynamics of the development of the Broadcasting Services Amendment (Online Services) Act 1999. This Act forms the basis for Internet censorship in Australia, a regulatory approach with limited impact, but a great deal of resonance for the development of new media policy in Australia (for a more complete description of this event see Chen 1999). The analytic approach is used to explain why certain political outcomes occurred, but also describes the activities of subsystem members and explains the relative lack of observable influence on policy decisions exercised by some individuals and groups.

The analysis is broken into five periods:

- **The pre-issue period** (1987–93): a period prior to the establishment of a policy subsystem for the issue of online content regulation;
- **Formation of the policy subsystem** (1994–95): establishment of a federal forum for the consideration of policy encourages an increasing number of users, business interests and information technology professionals to enter the policy debate.

This period shows the emergence of a policy subsystem that will remain active throughout the life of the case;

- **Stabilisation of the advocacy coalitions** (1996): the amount of government interest in the issue in 1995–96 encourages coalition longevity and stability. Because of the number of active groups at this time, data from this period shows the underlying stable positions that groups in the policy subsystem will retain in periods of conflict;

- **The ‘compromise’ period** (1997–98): following the release of the Australian Broadcasting Authority (ABA) report, the level of conflict in the subsystem declines and some groups move towards the more moderate centre of the policy spectrum; and

- **The legislative conflict** (1999–2000): with the release of the Commonwealth’s proposed legislation, 1999 data show the fragility of the ‘compromise’ period, with (largely) a reversion of groups back into their conflicting 1996 coalitions.

Within these five periods, the relative deployment of groups active in the policy debate...
surrounding Internet censorship in Australia are mapped into competing clusters, or advocacy coalitions, that reflect their commonality of beliefs and values or policy prescriptions. This approach is markedly different competing network approaches (such as Rhodes’s (1997) view of governance in self-organising networks bound by resource dependencies), as the use of advocacy coalitions as a unit of analysis need not reify political participants into formal coordinative structures for analysis. This approach is seen as more valuable in formative policy areas, where little direct resource exchange is evident because of the lack of specific programs of action that policy debate can be focused around.

What the analysis of the case illustrates is that, from a low level of interest in the operations of the censorship system in Australia, moves by state and Commonwealth governments to control the flow of information on the Internet activated a range of dormant interests, and drew ‘offline’ interest groups concerned with morality into a detailed discussion of the technologies surrounding computer networking. Motived either by a desire to regulate the online environment or to defer or prevent government intervention, these groups formed a series of relatively stable competing advocacy coalitions in a short period of time. As debate over the merits of government regulation failed to reach consensus, under the Keating Labor government debate was referred to a mediating government agency that strove to increase the level of information within the policy subsystem about the merits and difficulties of competing regulatory models. This approach served two purposes: it diffused tensions and shifted the centre of debate away from the Minister for Communications and the Attorney-General. It also served to cement the formative policy subsystem, stimulating the development of a shared frame of reference for debate that allowed the competing coalitions to stabilise. Following the release of a comprehensive review of the policy options, a centrist position appeared favoured by government that would limit the impact of regulation on the emerging Internet industry, and provide some measure of government control over the distribution of online content. This moderation served to further limit policy debate to elements within the policy framework, causing coalitions that favoured a strong regulatory position backed by criminal sanctions to become inactive. With the introduction of the enabling legislation in 1999, this relative consensus was broken by the inclusion of new provisions that mandated direct filtering of all Internet content in Australia. This apparent reversal of government policy reactivated pro-regulation coalition members, and radicalised libertarian groups. In the final legislative debate, commercial interests managed to reassert their dominance, forcing a small number of highly significant amendments into the legislation that effectively negated any pretence of a strict censorship law.

The Advocacy Coalition Framework: An Overview

The Advocacy Coalition Framework (ACF) developed from dissatisfaction with the bifurcated state of research into policy implementation of the 1970s and 1980s. Essentially divided into two competing theoretical camps — the ‘top-down’ and ‘bottom-up’ schools of research — implementation studies had recognised the limitations of short-term timeframes for policy analysis (which tended to underplay incremental adjustment of sub-optimal programs, and the cumulative effect of policy-oriented information and learning on policy change), and the difficulties associated with converting policy statements into effective programs of action (see, for example, Pressman and Wildavsky’s (1973) classic text. The differences between the two schools are stark (for a detailed comparison see Sabatier 1986). The top-down school attempted to overcome the problems of policy implementation through greater specificity of key conditions for successful implementation, a very practice-oriented view of implementation aimed at better command and control management of governmental programs. The bottom-up approach, on the other hand, exhibited a specific critique of the top-down view. Motivated by important work into street-level responses to central control (typified by Lipsky 1980) and network concepts of program implementation, bottom-up researchers argued for a wider conception of the range of actors to be considered in implementation studies, with an emphasis on the norms, information sharing and program design that occurred at the agency and inter-
organisational level, either because the delivery public programs operated where no formal policy or statute existed, or to evade or adapt existing policies to meet alternative ends.

From these two, largely incompatible, approaches, Sabatier developed his synthetic model for the ACF: starting from the ‘top’ with policy problems (rather than decisions), but incorporating the multiplicity of actors identified by the bottom-up school by mapping their interactions and strategies in response to the defined problem. What this means is, for the policy researcher, this approach is less directive (ie it does not follow a process model of staged implementation), tending to examine the policy debate surrounding public issues and mapping out how changes to group relationships are affected by decisions, political strategies and the exchange of information. What the ACF explicitly recognises is the problem of the public policy researcher attempting to describe political events through a single, coherent theoretical lens. Sabatier (1991:147) identifies the development of political science as a field of research that tended to spawn multiple sub-disciplines associated with institutions (such as cabinet) or processes (such as agenda setting).

When attempting to study policy-making in its totality, however, this theoretical pluralism provides a multiplicity of conceptual considerations that are often neither coherent nor sufficient causal theory to describe and explain the observed phenomena. In the latter category, Sabatier takes particular umbrage with the continued reliance on the stages model as a description of policy-making and implementation. The ACF, therefore, is an attempt to provide a ‘general theory’ of the policy process, and situate the traditional interest in institutional research (decision-makers, interest groups) within a whole-of-system approach.

In examining the role of interests in policy development and implementation, the ACF emphasises the importance of values in determining the relationship between organisations and individuals within a defined arena of political debate: the policy subsystem (Sabatier and Jenkins-Smith 1993). The subsystem is an abstraction of the universe of participants in the policy-making process, and the field in which politics is mediated, policy interacts with the environment and participants engage in strategic action. Sabatier’s policy subsystem concept is dynamic, incorporating (and requiring) a consideration of temporality and the processes of change. The movement of groups and individuals within and between coalitions can show the impact of internal political strategies, externalities and lesson learning in the political context. Policy-making and change is, therefore, not simply a process of exercising power over others, but has concern for the kind of political and social outcomes highlighted by implementation research (the difference between policy outputs and policy outcomes).

For Sabatier, in determining how groups within this policy subsystem act in loose ‘advocacy coalitions’ — promoting and defending their preferred policy alternatives and attacking, neutralising or assimilating views of their rivals — it is possible to determine how policy is made through connecting sub-system members’ ideas with their motivations, access to resources and influence upon key decision-makers (sovereigns) who control implementing agencies and strategic decision points. Sovereigns are holders of institutional power or legal authority. These actors can be persuaded through information sharing and learning or via a range of political strategies (termed ‘guidance instruments’ by Sabatier and Jenkins-Smith 1993:227–30) that can be employed by subsystem members to influence sovereigns’ decisions (for a detailed discussion of guidance instruments, their nature and utility, see Sabatier and Pelkey 1987). Overall, the approach stems from a wider American interest in pressure politics, and reflects some of the characteristics of the multiplicity of access points highlighted by Heclo’s (1978) view of policy-making in ‘issue networks’ containing large numbers of players acting at different levels of government to advance their preferred policy outcomes. Thus, the approach is also intergovernmental in nature, reflecting the complexity and fragmentation of policy development and implementation found in federal systems, but also has potential application for international policy issues (Farquharson 2002).

At the meta level, the ACF provides a systemic constraint structure that limits the scope and range of activities within coalitions through controls over the resources of actors (such as funding for agencies) or the imposition
of rules or norms of behaviour. For Sabatier (1988:132–3;134–37) this constraint structure takes two forms: relatively stable system parameters (such as the nature of policy issues, distribution of resources and cultural norms, and constitutional and government structures), and events subject to temporal change (the election of new governments, economic fluctuations or the impacts of decisions made in other policy subsystems). Thinking about policy-making in a subsystem, therefore, requires reference to the static and changing nature of the wider environment within which its members operate. What the relationship between the systemic and subsystem components of the ACF show is that the nature of policy-making is both dependent upon, and influences, the overarching political economy. This relationship is illustrated in Figure 1. This figure shows the impacts of stable and transient system-wide influences on the rules and resources available to advocacy coalition members, the dynamics of political debate within the subsystem, and the feedback of subsystem outcomes and outputs onto the wider system characteristics.

In operationalising this theory, this paper examines the development of the policy subsystem for computer network content regulation in Australia. As a new policy area, the case is well placed to examine how subsystems arise, and how competing advocacy coalitions form to contest policy responses from government.

Methodological Overview

While the ACF has been used as an interpretative heuristic, the application of the framework for this paper was the ‘complete’ method advocated by Sabatier and Jenkins-Smith. This positivistic approach utilises the content analysis of documentary sources to develop a numerical ‘portrait’ of the policy-oriented views and values of groups and individuals within the subsystem. These data sets can be compared using multivar-

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<th>Events External to Subsystem</th>
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<td>1. Changes in socio-economic conditions and technology</td>
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**Figure 1: The Advocacy Coalition Framework System Diagram**

![Diagram](image-url)
iate analysis to produce diagrams (dendrograms) illustrating the relationship between groups’ and individuals’ value systems at particular points in time.

What the dendrograms show is the relationship between different organisational and individual value systems, clustered hierarchically (Sabter 1984:350; Afifi and Clarke 1984:391–400). Groups that substantially share similar views to each other are linked by a line, then this cluster is linked to the next closest group or individual. Thus, the closer the link between groups on the dendrogram, the closer their overall values and beliefs. By determining a number of clusters within relationship maps, clusters of groups with substantially similar views (either based on deep core beliefs and fundamental values about the nature of the world and humankind, general policy preferences, or specific desires and preferences about individual elements of a preferred policy position) can be identified. It is these clusters of organisations and individuals that Sabatier terms advocacy coalitions: formally and informally working towards achieving similar aims and outcomes within the political process (the policy subsystem).

**Database**

To produce the dendrograms, Sabatier and Jenkins-Smith recommend congressional hearings to collect evidence over time. These sources provide data from ‘arenas’ in which subsystem members regularly participate. Additionally, other government hearings or investigations can be used as substitutes for congressional inquiry processes (Sabatier and Brasher 1993:186). In applying this method to Australia, parliamentary hearings and governmental inquiries were substituted for congressional committees, having a similar rationale, composition and processes (for a detailed analysis see Inglis 1970).

Data were gathered from nine sources:

- the Gibbs inquiry into computer crime (1987–88);
- three inquiries of the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (1995, 1995 and 1997);
- Australian Broadcasting Authority Investigation into Online Services (1995–96);
- Department of Communications consultation on the proposed national framework document (1997);
- National Office for the Information Economy (NOIE) consultation on its preliminary strategy paper ‘Towards an Australian Strategy for the Information Economy’ (1998);

Of the 712 submissions, 136 documents were sampled. The decision rule was regular submission to one of these forums, any individual or group that submitted on a regular basis (consecutively, or once every two inquiries).

**Coding**

A coding frame based on secondary sources was constructed using numerical scales. The frame was divided into three areas of the belief system laid down by Sabatier: Deep Core, Policy (Near) Core, and Secondary Aspects of the belief system, from the most! broad and deeply held to more specific and changeable views regarding policy. These areas contained 71 separate measures, used separately, interchangeably or indicatively to measure relevant aspects of the belief system from the sampled documents. To code these data, a coding team of four was used. The completed data sets were reduced into 15 measurements (comprising measures from the coding frame listed in square brackets) for the purposes of multivariate clustering and graphing:

1. Importance of community values [a4a–a4b]
2. Importance of libertarianism [a4c–a4e]
3. Criminal versus social nature of the policy area [b1]
4. Applicability of existing legal codes to the policy area [c1]
5. Definability of the problem [b2, c2]
6. Type of policy area [b3, c3]
7. Scope / importance of the problem [b4, c4, c5]
8. Appropriate domain of governmental intervention [b5a]
9. Basic policy response required [b5b]
10. Duty of care for online content [c6c]
11. Positive or negative view of government intervention \[b6, c7\]
12. Government capacity to act \[b7\]
13. Complexity of the policy area \[c8\]
14. Preference of technical versus non-technical response \[b9, b10\]
15. Capacity of various solutions to solve the problem \[c11, c12\]

For a complete overview of the measures included in the coding frame, see the Appendix.

**Intercoder Reliability**

Because of manifest/latent content considerations, and the tendency for missing data, the question of intercoder reliability becomes important in assessing the value of the method. Overall, the decision to code was just under 80 percent, while the average variance of coding decisions was under 13 percent. This compares favourably with the minimum suggested by Chadwick *et al.* (1984) (60 percent), while Sabatier and Brasher (1993) report for the Lake Tahoe research a three-person coding similarity of 89 percent with 91 percent of coding decisions being within one step of each other. Jenkins-Smith and St Clair in the offshore energy study report 85 percent decision similarity, with an extremely high 98 percent coding variance no more than one step apart. Overall, while the coding similarity in this case analysis compares favourably, the coding decision test for the case analysis is lower than that used by Sabatier and Brasher or Jenkins-Smith and St Clair (by 7 to 11 percentage points). This variance may reflect limitations in the development of the coding frame (ambiguities or redundancies) or insufficient training for the coding team. Overall, because of the relative novelty of the policy issue and the technical nature of the debate, much of the discourse surrounding the policy issue remained ambiguous, unclear or ill-defined. This problem appears less likely to occur in formalised policy subsystems (where subsystem norms have developed), but possibly reflects the limitations of the methodology (as opposed to theoretical utility) in application to wholly new policy issues. Further application of this methodology needs to be undertaken across a wider range of cases to explore some of these methodological issues in detail.

**Results of the ACF Analysis**

**The Pre-issue Period: Computer Crime**

The issue of computer network regulation in Australia has not been limited to the development of the Internet. Prior to the popularisation of the Internet protocol through the development of Hypertext Markup Language (HTML) and graphical browsing software, the Commonwealth became concerned about the misuse of computers (either stand alone or networked machines) for criminal activities (mostly related to fraud). These concerns were examined by the Gibbs inquiry into computer crime, undertaken during 1987–88. While this period would be valuable in determining the position of groups prior to the formation of a policy network for Internet content regulation, data gathered from the Gibbs inquiry, presented in Figure 2, are statistically unhelpful in describing the general deployment of groups involved in the inquiry process of the time. This is due to two factors: first, because of the sampling method used, only three groups (the Australian Federal Police, Telecom Australia and the Commonwealth Attorney-General’s Department) were included because of their longevity in the policy subsystem; second, given the relatively limited scope of the inquiry, few non-government groups (only two law societies and one academic) made submissions to the inquiry. Industry, users and information technology (IT) professionals were not represented in the inquiry process. This shows a fundamental disjunction between the two periods (1987–88 and 1995–).

Essentially, the policy process in 1988 is distinct and remains largely unrelated to the later policy-making process.

**Formation of the Policy Subsystem**

Given the discrete nature of policy-making 1988, a policy subsystem surrounding online content regulation issues does not emerge until the federal government and parliament began exploring the issue of Bulletin Board System (BBS) content in 1995. While these (largely) private networks existed in 1988, concerns about online content in the 1990s was stimulated by a different subsystem: censorship, through the Standing Committee of Attorneys-General (SCAG). In examining the implications of increased control of computer game content,
BBSs came to the attention of SCAG as these systems were being used to distribute games that had been banned because of their sexually violent content. While additional regulation of BBSs could have been introduced through the BBS Taskforce established by the Attorney-General, emergence of the Internet, greater use of computers and modems and commercial interest in the technology prevented the taskforce’s recommendations being implemented. Through attention given to the topic by the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (the ‘Community Standards Committee’), pressure was placed on the Labor government to act. While the Gibbs inquiry process saw little conflict over its recommendations, in 1995 the establishment of coalitions supporting and opposed to the regulation formed, which were willing to become entrenched in the subsystem and engage in ongoing debate.

**Birth of an ‘Internet Censorship’ Policy Subsystem**

Figure 3 shows the deployment of subsystem members in 1995. Composition of the subsystem is interesting for two reasons: first, it is the first time a forum was provided for groups interested in Internet content to express their preferred policy views (the BBS taskforce was constrained to the older technology that was rapidly becoming obsolete); second, a low level of understanding existed about the nature of the technology, its implications (social and commercial), and potential for future development. While some groups had particular expertise with technology, they tended to be new to the political process (eg the Internet Industry Association (IIA)), while other groups
familiar with government were attempting to understand the implications of the technology for their existing business practices (such as News Limited). Generally, however, three coalitions emerge in 1995 that remain stable (with some notable exceptions) during the life of the case.

The first coalition presented in Figure 3 is the ‘pro-regulation coalition’. This coalition is highly stable over the life of the case. Composed of the Commonwealth Attorney-General’s Department (invested in the intergovernmental censorship system through membership of SCAG) and interest groups with wider concerns about the media content (especially pornography and violence and its impact on young people; Van Lyun 1995:3), this coalition advocated the use of criminal sanction against those who transmitted or received ‘unsuitable’ content (MacDonald 1995:2). While some advocated a mix of regulation, education and other government-initiated strategies, the overriding focus of their approach was legislative: criminal sanction to enforce a predetermined moral position.

The second cluster, ‘light regulation coalition’ was composed of members of the computer industry (General Products Limited, Checkmark Technologies), IT professionals (Australian Computer Society (ASC)) and academics (Roger Clarke, the Communications Law Centre of the University of New South Wales), and policy watchers (Policy Assessment Society). This coalition was concerned with promoting either minimal intervention in online content (Swan and Patten 1995:2–3), or held the view that existing legislative safeguards (such as laws covering the use of telecommunications services to harass) and criminal law (prohibitions on the possession of child pornography) were sufficient to deal with crimes that may occur online (Proudfoot 1996:2–3; Aysnley 1995:2). The light regulation coalition members were more likely to admit either to some degree of problem associated with content, or to concede its importance of public concern.

The final cluster, the ‘no regulation coalition’, was a smaller group containing Bulletin Board System operators happy with the lack of regulation on BBSs (PC Users Groups (ACT)), commercial interests (Optus Communications, the ITA), and individual users (Robin Whittle, Irene Graham). These groups and individuals were opposed to government regulation of the new media form, either because of the impact of individual personal liberty to communicate (Graham 1995:7), or the effect of untimely or ill-considered regulation on an uncertain market (Optus Vision 1995:1; PC Users Group (ACT) 1995:7). When considering the light and no regulation coalitions, the dendrogram shows they remain closer (being part of the same larger cluster) than either coalition is to the pro-regulation coalition. This remains consistent over the life of the case, with these two groups more likely to trade members, information and political intelligence.

Overall, the disposition of the three coalitions, and the relatively incompatible forms of policy debate (technical versus moral, regulatory versus communitarian) challenges Sabatier’s conception that basic attributes of a policy area are relatively stable system constraints (as illustrated in Figure 1). The nature of the policy issue (determining if a public problem actually existed around the area of online content, and the nature of that problem’s characteristics) at this time remains highly fluid, and subject to the social construction of the problem (Entman 1993), through the actions of the government and members of the policy subsystem, but also through the highly selective media reporting of ‘net nasties’ (for an example see Beun-Chown 1995). In addition to these competing attempts at problem definition or framing, the economic and social use of the online environment remained in a state of ferment, as users adapted the technology to new purposes, and commercial interests defined and refined their online business strategies, an ongoing process that remains apparent today. External stability of problem issues, therefore, need not be as concrete as indicated by Sabatier (who implies ‘punctuated equilibria’-style changes to these underlying preconditions for debate), but can be subject to incremental and evolutionary (fit and spurt) change and development. Where these conditions are apparent, the instability of external system constraints will limit the political rules of the game and sub-system norms in which advocacy coalitions act.

**Search for Stability: Government Policy 1995**

During 1995 the Labor government, under Communications Minister Michael Lee, made its first
and last significant policy decision affecting the case. A sovereign of communications agencies, Lee instructed the Australian Broadcasting Authority to investigate online content regulation: specifying the authority examine a range of self- and co-regulatory options, educational and technological methods of controlling minors’ access to inappropriate material, and the applicability of the Broadcasting Services Act 1992 to this environment. Overall, this decision was a minor victory for the light and no regulation coalitions, who had used informational strategies about the inappropriate nature of precipitate government intervention to prevent an immediate legislative response. As indicated in Figure 4, showing the position of subsystem members based on their views of the government’s capacity to regulate successfully the policy area, and the group or individuals’ positive or negative views on regulation generally, members of the light and no regulation coalition generally expressed doubt at the capacity of the government to impose a successful regulatory regime. While the pro-regulation coalition pushed for immediate government action on the issue of online content, Lee decided only to examine the issue further, and in a manner providing additional input from potential regulators and the public. In providing an agency with responsibility for the investigation, rather than his department, this decision also meant the government was obligated not to act until the ABA had completed its investigation (effectively deferring further decisions for 11 months).

Lee’s decision shows the importance of the lack of concrete or agreed information in the formative subsystem. Sabatier and Jenkins-Smith (1993:45–8) propose a flow-chart model of policy debate applicable to these scenarios. As seen in Figure 5, where coalitions establish their cause on the political agenda and meet resistance from other coalitions, the outcome of debate can either lead to:

- **simple resolution** [A] where a coalition emerges with a policy problem, places it on the agenda and receives a policy response acceptable to their position;
- **consensus on policy** [B] where the coalitions, through the process of analytical debate, come to agree on a mutually acceptable course of action;
- **no consensus, but with an accepted set of ‘rules of engagement’** [C] where the coalitions remain in conflict, but the nature of the dispute and the elements of the policy issue are generally agreed by subsystem members; or
- **total lack of consensus** [D] where neither a policy response nor the nature of the policy

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![Figure 4: Preference for, and Capacity to, Regulate — 1995](image-url)
issue are agreed. Governmental decisions emphasise the search for information to inform decision-makers, understand the true nature of the issue and determine potential policy responses. Few, if any, concrete regulatory measures will be taken. Thus, the findings of the Community Standards Committee in 1995 motivated coalition members to manifest, either to support or resist, their strong stance on government intervention. Without agreement on the boundaries of debate, competing coalitions argued about the nature of the issue, proposing views on the nature of the issue and countering each other’s assertions and viewpoints (about the amount of pornographic material online, the impact of this material on the behaviour of minors, and the utility of existing or potential regulatory


Figure 5: Dynamics of Policy Debate in Formative Policy Subsystems*
models). As illustrated in Figure 6, none of the coalitions could agree on two of the more fundamental questions under consideration, with the high regulation coalition arguing a serious problem existed which could not be met by existing legal codes (necessitating new laws), while the no and light regulation coalitions played down the scope of the problem, but were divided over the applicability of existing law. Given this division, the decision of Michael Lee follows the logic presented by Sabatier and Jenkins-Smith at this formative point in the policy subsystem in deferring decision-making based on a search for new information.

**Stabilisation of the Advocacy Coalitions**

The intergovernmental nature of the policy issue is also captured by the ACF approach. Coalition members’ involvement in the debate of 1996 was partially driven by regulatory moves in NSW, supported by SCAG. In 1996, then NSW Attorney-General Jeff Shaw proposed new criminal laws for online content regulation to operate without reference to the federal political debate (based around the Commonwealth’s constitutional powers over telecommunications and like services). However, this independence of action was limited. Shaw’s decision for a quick political win over the Internet pornography issue was supported by the Commonwealth Attorney-General’s Department, which remained in favour of regulatory action at this time, partially through the work done by the Criminal Law Division on the BBS Taskforce (Johnson 1996:2–3), but also because of the relationship between the department and the SCAG process. This quick win would be curtailed, however, with greater than expected negative reaction to the proposal from the public and local business interests. With the leak of the draft NSW legislation to the newly formed online libertarian group Electronic Frontiers Australia (EFA), the debate in NSW became even bitter, including a march on state parliament organised by EFA members and opponents of government control of online content.

**Open Conflict in the Subsystem: Balkanisation**

What the dendrogram for 1996 (Figure 7) shows is that, while a number of groups have moved around the subsystem, a relatively stable pattern has emerged. Significantly, between the light and no regulation coalitions, the EFA and a number of policy watchers have moved into the no regulation coalition showing their strengthened opposition to regulatory action at this time (Proudfoot 1996:1; Heitman 1996:2), as a reaction to what they identified was poorly drafted and overly punitive NSW regulation.
The light regulation coalition has come to accommodate Optus Communications and is now dominated by commercial and professional interests. Those commercial interests remaining in the no regulation coalition are themselves connected in some form to Electronic Frontiers Australia: General Products Ltd represented by Peter Merel, an EFA member and later organiser of the march on the NSW parliament, concerned with online free speech and the compliance costs of regulation on Internet service providers (ISPs) and other industry members (Merel 1996:3–4), and the Western Australian Internet Association Ltd (WAIA), represented by Kimberley Heitman who produced the WAIA and EFA inquiry submissions9 at this time. In the distribution of groups between these two coalitions, it is important to note that, while they do not remain entirely consistent over the life of the case, there exists a tendency for this form of commercial interest/non-commercial interest split between the composition of the light and no regulation coalitions. This difference in type of member appears to add to tensions between the related clusters with the libertarians in the no regulation coalition suspicious of the commercial motivations of the light coalitions membership.

Also interesting is the relationship between members of the pro-regulation coalition that was identified in the 1995 dendrogram. Formally a discrete cluster, the distribution of these groups during 1996 necessitates the division into two clusters. A second coalition separates out, which can be called the high regulation coalition. The pro-regulation continued its support for regulation based on the threat to children by online content (Biggins 1996:2–3) with an acknowledgment of the limitations of technological solutions and the need for non-coercive strategies — an impact of policy learning from the analytical debate of 1995. The high regulation coalition were less compromising, calling for strict application of liability for offensive content (to creators and communicators of it) to be overseen by a ‘control board’ (Presbyterian Women’s Association; Smith 1996:1–2), or similar central government body, similar to the Literature Censorship Board of the 1930s. Thus, while having similar concerns about the extent of the problem, these two clusters promoted very different policy solutions to address these concerns.

The Light Regulation Coalition’s Success: Towards a Compromise Position

The next set of data applicable to the case study comes from 1997 and shows a general relaxation in the position of subsystem members. Because of the dispersal of inquiries, however, over a year passed between preparation of submissions for the ABA investigation and those for the next Community Standards Committee (mid-1997). Additionally, by the time the Department of Communications and the Arts calls for public comment on the Principles for a Regulatory Framework for On-Line Services in the Broadcasting Services Act 1992 document, a year has passed from when the NSW draft legislation was abandoned. Because of this gap between data sources, it is difficult to determine the impact on the subsystem of the release of the ABA’s report and the decision by the NSW Attorney-General to discontinue developing legislation.

Overall, what can seen is that the ABA, in calling for a co-regulatory model within the Broadcasting Services Act in which it and industry codes of practice would feature prominently (with emphasis on education and end-user empowerment through desktop filtering/classification technologies such as the Platform for Internet Content Selection (PICS); ABA 1996), strongly favoured the median position being put forward by the light regulation coalition. As the light regulation coalition consisted largely of business, the ABA supported an industry-led approach to regulation that favoured complaints-driven control rather than criminal sanction (a regime with lower compliance and administrative costs). This approach, unsurprisingly, closely emulated the model used in the legislation for the broadcasting industry itself, regardless of the radically different structural characteristics of the two media. While the direction given to the ABA may not have shaped the agenda of the public debate, the report was constrained within the ambit of the ministerial direction. This was a strong rejection of the views of the Community Standards Committee, the NSW government and the pro-regulation coalition, but also shifts in the power relationship within the subsystem: where the ABA had previously been one agency that had some technical expertise to contribute to the policy debate, from the release (and government acceptance of) the ABA report, groups now begin to eye the authority as a
potential regulator, rather than simply another government agency.

The 'Compromise' Period

Between 1996 and late 1998 a reduction in conflict can be seen. While the systemic level has seen a major external shock, the change of systemic governing coalition, under the Howard government Commonwealth policy-making moved to consolidate the position left by Labor rather than introduce a dramatic change in policy direction. This consolidation saw the ABA report being converted into a substantive policy statement in the middle of 1997. In this climate, the position of some of the no regulation coalition became more conciliatory and a number of the pro-regulation and high regulation coalition members became inactive, sensing general consensus or a 'done deal'.

Because of this apparent compromise among many groups to some form of mild federal regulation, this period sees the IIA emerge as an increasingly important player, and one willing to become engaged with the regulatory process as an active partner with government.

Towards the National Framework Policy Document (circa mid-1997)

Following the withdrawal of the NSW legislation in 1996, the policy subsystem in mid-1997 (Figure 8) returned to a composition similar to that of 1995. While this could be seen as a reversion to a pre-existing tendency for the subsystem members, the intensity of the conflict in 1996 shaped the composition of the coalitions. These changes can be seen in a number of organisations. First, the IIA presents itself as willing to accept regulation via codes of practice.

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(AIC 1997), a view markedly different from that presented to the Community Standards Committee in 1995, where it was concerned about the effects of any regulatory move on the development of the industry. This shift indicates the direction of the association’s development in response to events within the subsystem, leading to the IIA’s repositioning as the peak industry body for ISPs, and central to any regulatory regime (competing with the state-based organisations like the WAIA that might not feature under a national framework as co-regulators). Second, in the case of individuals and organisations related to the EFA, Irene Graham’s position has remained consistent to that held in 1996, as has the WAIA. The EFA itself has moved back into the light regulation coalition, closely matching that held by Greg Taylor, a board member of the EFA, in 1996. Thus, while the organisation has continued to move back and forth between the light and no regulation coalitions (influenced by the author of the submission and the level of subsystem tension), individuals who have a formal association with the organisation maintain highly consistent positions. Third, the Department of Communications and the Arts has re-emerged at this point, maintaining a position consistent with its previous position of 1995 and in tune with the recommendations given to the minister.

Within Figure 8 two interesting features need to be highlighted. First, in 1997 we can see an additional advocacy coalition which is unique to this point in time. This cluster consists of only two members, the Eros Foundation and the Communications Law Centre (CLC). This cluster (the *PICS solution coalition*) supported the use of PICS technology as a means of accommodating the desire for control of content for protection of minors and preservation of the Internet as a source for adult-oriented content and free speech (Parliament of Australia 1997:204–6; Eros Foundation 1997). Because PICS could accommodate a range of ratings systems and methods, and be configured for the personal and cultural sensitivities of the individual user (Resnick 1997), this method was seen as an empowering approach to content control. This view was based on the argument of PICS as a solution to issues of online content, supported in the ABA report. That this coalition was untenable is related to the marketplace failure of the PICS model to become a standard technology of the web (PICS would have required all web content to be rated and assigned a list of metadata upon which users would base their viewing decisions) — an external factor related to the technological development of Internet ratings systems, and the complexities of developing industry standard technologies in the online environment. Support for this technological solution made the cluster distinct from the no regulation coalition (although they share similar views about the negative impact of government intervention), as groups like the WAIA are already casting doubt upon the level of compliance any non-governmental classification system would have internationally (Heitman 1997:2). By the time these groups submit again, the idea of PICS as a solution has passed, a casualty of the rapid pace of technological and commercial change.

The second observation is that while the ABA released its report supporting the call for a co-regulatory regime for online content, it falls within the pro-regulation coalition. This position itself is somewhat ambiguous, and certainly is not supported by a reading of the policy position advocated by the online investigation group of the authority. However, this leaning towards more strident calls for action by the authority at this point (an apparent aberration that is corrected in 1998) is supported by the authority’s ‘urgent’ requests for legislative changes to extend the agency’s jurisdiction. This legislation would provide them with an ongoing involvement in the issue of Internet content, which up to this point had merely temporarily been conferred by short-term ministerial directions (Parliament of Australia 1997:143). As the authority had effectively been appointed as the future regulator of Internet content, it was now becoming ‘frustrated’ (1997:153) by the lack of action of government to broaden its legislative base.

**The National Framework Policy Document: Light Regulation**

Given the substance and reception of the ABA report, the national framework document reflected the dominance of the light regulation coalition. The 1997 national framework cemented the Department of Communications as the key coordinating body for development of the regulatory regime, with their minister the key sovereign for future policy decisions. As
the Attorney-General’s Department had been closely aligned with the pro-regulation coalition, and associated — through SCAG — with the failure of the NSW legislation, this choice to place decision-making away from the Attorney-General was favourable to the light regulation coalition, and less offensive to the no regulation camp. Overall, the principles did not produce substantial conflict, with many submitters to the departmental consultation process examining the substantive points of the framework rather than attacking the basis of the regime overall (Clarke 1997; Association of Heads of Independent Schools of Australia 1997; Young Media Australia 1997).

In the Wake of the National Framework Policy Document (circa 1998)

From mid-1997 to the end of 1998, the process of policy development, based on the national principles document and subsequent consultation, continued. This incremental approach dominated the agenda, with many groups seeing the regime as agreed upon and only minor elements of policy to be determined. Conflict was curtailed and many groups became inactive. This inactivity was especially prevalent in the pro-regulation coalition. The release of the ABA report had presented a detailed account of the technology and associated regulatory options — technical evidence that did not favour views of the pro-regulation coalition. Given support offered to the light regulation coalition by the new government, some members of the pro-regulation coalition exited the policy subsystem temporarily. Figure 9 shows the state of the policy subsystem in 1998, including the absence of the pro-regulation coalition and the movement of the ABA into the light regulation coalition. Where the Department of Communications had been responsible for the policy development process in 1997, these functions had been transferred to the new Office of the Information Economy, itself a member of the light regulation coalition (notably at the other end of the cluster to the ABA, reflecting its strong partnership and pro-industry orientation, and its limited involvement (at that point) as a regulator). Strengthening its position in the industry, the IIA formalised its lobbying and membership structure and was now presenting itself as the industry ‘peak body’ (Coroneos 1998:1) with a

![Dendrogram for 1997](image-url)
draft code of practice for the industry to adopt as an essential part of the co-regulatory regime being negotiated with the government. Overall, confidence was high.

What Figure 9 does not show, however, can be illustrated in Figure 10. This figure graphs the standard deviations of a number of measures among the data sets over the life of the case study. These measures featured in Figure 10 are:

- The nature of the policy area (criminal versus civil)
- The capacity to accurately identify/define the users and services of the industry
- The type of policy area being examined (broadcast, narrowcast, personal communication, information technology, unique technology)
- The preferred basic policy mechanism for government intervention
- If intervention would be positive or negative

In charting these measures, it is possible to see the overall level of agreement within the policy subsystem itself (as opposed to that within coalitions). What the figure demonstrates in the period 1997–98 is an overall reduction disagreement about policy elements. This is most marked in the two measures looking at the definition of the policy area (nature and type), showing that, while policy elements may be in dispute (secondary belief system elements), a greater level of agreement on near core beliefs is manifest. Because these belief elements are relatively significant, this can be seen to assist in explaining the reduced level of conflict in the policy subsystem at this point in time.

Such tranquillity, however, was not to last.

**The Legislative Conflict**

The final data set, featured in Figure 11, is drawn from the Senate Select Committee on Information Technologies (‘The IT Committee’) hearings into the Broadcasting Services Amendment (Online Services) Bill 1999. This point in time was marked by a renewal of subsystem conflict with the release of the government’s legislation. This conflict was exacerbated by the content of the Bill, substantially different from the preferred position of the light regulation coalition and the government’s ‘regulatory partners’, the IIA. This difference meant the association was placed in a difficult position, having been actively involved in the development of the co-regulatory system. Overall, the deployment of the subsystem has returned to the ‘wartime footing’ of 1996. With the release of the more aggressive legislative basis for regulation, a number of the pro-regulation groups re-engage with the policy process, throwing their support behind government action (the National Viewers’ and Listeners’ Association and Presbyterian Women’s Association). The Gay and Lesbian Rights Lobby, concerned with the impact of censorship on the freedom of homosexuals to communicate about their preferences and political concerns (Sant

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**Figure 9: Dendrogram for 1998**

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1999:2), also renew their interest in the debate (as do two other lobby groups concerned with homosexual rights) in the no regulation coalition, and the EFA, Internet Society of Australia (ISOC-AU), WAIA and Eros Foundation all take a similar strong stance against the legislation, and specifically the use of blacklists to filter all Internet content coming into the country.

Overall, however, while conflict occurred over the stronger elements of the legislation, the outcome of the debate in early 1999 again reinforced the ascendant position of the light regulation coalition on the process of policy-making. Government amendments resulting from this inquiry process (but not the committee report itself, which endorsed the government’s position), served to undermine areas within the original legislation with which the IIA and ACS felt most concerned. Changes were made through significant exception and exemption of provisions, negating direct intervention by government in the flow of Internet traffic. Thus, while the legislation passed through the senate with minor changes in percentage terms, it was a substantially different law, containing the basis for a strict content regulation system that was largely negated through exemptions connected with an industry code of practice. The pro-regulation coalition, recently brought back into the debate, cannot claim these final policy decisions as any form of concession to their views, with the ‘sharp end’ of the legislation they favoured negated through amendments moved by Minister Alston. The success of the light coalition remains consistent with their view on government policy from 1997 onwards, and the position of the two national industry associations (the IIA and the Australian Information Industry Association) and the ACS in this coalition lent weight by their marketplace and industrial power. While the legislation could allow the ABA to act without a regulatory partner, the IIA might not have elected to become engaged with the regime originally posited in the initial Bill tabled before the parliament, an outcome that would have

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**Figure 10: Standand Deviations**

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substantially undermined the credibility of the co-regulatory approach.

**Points of Departure: Key Agency Distribution**

It is interesting to note the changing position of federal agencies in 1999. At the IT Committee hearings in 1999, the ABA (as regulator) and NOIE (as policy developer) were required to explain the government’s policy position, as released in the legislation and its explanatory memoranda. Defending the policy in terms of their involvement with its implementation process, public servants presenting to the IT committee were not expected to provide assessments of the validity of the government’s policy. Consequently, the position of these organisations at this time reflects the direction of the unamended Broadcasting Services Amendment (Online Services) Bill. That this legislation matched neither preferred position of either body is evident in the distance they moved around the policy subsystem from 1997 to 1999. As we can see in Figure 12, NOIE and the ABA had a very different view of the nature of regulation and potential success it might have.

In moving into the positive view of intervention / high capacity to regulate sector of this figure, they show their adherence to government policy, and how far out of step these organisations were with political masters in 1998 (for comparison of the shift of position of consistent pro-regulation coalition member, the 1998 position of Young Media Australia is included).

**Relations Within the Subsystem: the Industry Association ‘Sells Out’**

While the outcome of the legislative debate reflected compromise, the different compositions of the light regulation and no regulation coalition led to tensions. The tendency for the light regulation coalition to be dominated by industry representatives, and the no regulation coalition to reflect user interests, created conflict between these two, nominally closely related advocacy coalitions. With the IIA negotiating with government on laws the no regulation coalition found objectionable, this tension came to the surface during 1999 with the IIA attracting criticisms for engaging with government (Yee 1999; Heitman 1999; Hayes 1999) from groups like the EFA. What these criticisms overlooked was the active movement of the IIA in advancing their coalition’s position and attacking the more conservative stand advocated by the original legislation. While the 1999 period saw groups in the no and pro-regulation coalitions return to their ‘wartime’ postures (such as the EFA or Young Media Australia), what is clear is that groups within the light regulation coalition also reacted by increasing the intensity of their position statements and government lobbying. When push came to shove, the moderate, centrist coalition...
tended to ‘bleed out’ members into more extreme coalitions. While this shows that the strength of the light regulation coalition was not in its numerical size, but through the industry pressure the IIA could bring to bear on government, this also demonstrates that the policy positions measured through the empirical methodology (assumed to reflect the value system underlying policy preferences of coalition members) are highly contingent on temporal political events and ‘climate’. What needs to be considered in the application of the ACF to case analysis, therefore, is the limitation of directly reading temporal shifts in position within and between coalitions as ongoing positional changes. Were it possible to sample coalitions at politically neutral points in time (which is not feasible under the methodology presented by the ACF), the case would likely demonstrate the highly consistent views of many participants in the political debate.

**Concluding Comments**

In the case presented we see that issue formation does not necessarily entail the development of a policy subsystem, with the consideration of computer crime in 1987 and 1988 a ‘false start’ in terms of developing a continuously engaged set of policy-makers. With the recurrence of the issue on the political agenda in the early 1990s, the policy subsystem quickly developed, and continued to accept increasing numbers of active groups and organisations. What we can see is that these coalitions quickly stabilised, but remained fluid and reactive to the wider political climate. As the issue became less intensely contested following the ABA inquiry and the release of the 1997 national principles document, some groups moderated their positions, or drifted from other coalition partners and even their constituent members. This ‘drift’, however, was limited, and with the resumption of intense debate in late 1998 and early 1999, active groups tended to revert to their original positions or re-engage with the political process. Overall, we can see that the debate has tended to focus around three relatively stable coalitions: one advocating a high level of regulation and intervention; one a moderate level of self- or co-regulation; and a third completely opposed to additional government intervention in the area. What the ACF illustrates is how policy debate moves from the ill-defined and amorphous into more structured and ordered discourses with shared terminology and concepts. In part, this is a clear process of information exchange and transfer between groups (either within or

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**Figure 12: Effect of Government Policy on Agency Relationships 1998–99**

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between advocacy coalitions), but is also motivated by sovereigns’ desires to control conflict and debate through mediating institutions like the ABA.

What the analysis does show is that description of the dynamics of the policy subsystem in vacuo can be misleading in accurately describing the nature of the policy-making process. While coalitions were key actors in shaping the nature of the final policy response (and in the way the policy debate was conducted), the ACF approach tends to overplay the role of sovereigns as ‘neutral arbitrators’. In both the decision to defer discussion to the ABA and the framing of the initial legislation in 1999, the key influence of the two ministers for communication is evident in their control over the policy process. That the light regulation coalition was able to promote the co-regulatory approach and ensure amendments to the Bill does speak of the influence of this group of industry representatives in shaping policy outcomes however, it is evident that key sovereigns needed to act with only limited reference to subsystem actors and could effectively ignore the interests of the high and no regulation coalitions. What is clear is that seemingly minor early decisions in the policy-making process (in this case the decision to use the ABA as the moderating agency for policy debate) were highly significant in framing future discussions in a way that constrained the actions of future sovereigns. For Minister Lee, the decision to place consideration of the issue with the ABA reflected the limited capacity of his department to address the technical nature of the issue, rather than a conscious decision to influence the outcome of the report. Because, however, of the nature of the ABA as a broadcasting co-regulator, the decision to place this issue with that body significantly shaped the content and style of their consultations, favouring the positions put by the light regulation coalition. In this way, and without a conscious ‘framing’ strategy, the later Minister Alston remained locked in to the broadcasting structural model that undermined any attempt at a last-minute tightening of the regulatory approach. These characteristics of the debate, while identified by the long timeframe of analysis specified by the ACF, can be neglected by over-reading the importance of subsystem behaviour at the expense of institutional analysis. This reflects the US centric view of the ACF as highly pluralistic, and indicates that further synthetic theoretical work is required in localising the ACF for the Australian environment.

Notes
1. Clear and consistent objectives (a very Fayolian view of the managerial process, 1967), adequate causal theory (from Pressman and Wildavsky 1973), legal structures to ensure compliance, committed and skilful implementing officials, support of interest groups, and changes in socio-economic conditions that do not undermine political support or causal theory.
2. Which is more pertinent to the Australian environment than the USA’s, through party unity and executive control of legislative processes.
3. Sabatier and Jenkins-Smith see the congressional committees as being forums in which casual speech occurs (ie the data is seen as unbiased or representing the ‘individual true value’ of the group or individual).
4. This means that some surface level values could be used to indicate the preference held at a deeper level of the belief system.
5. The group consisted of Honours students from the Australian National University and University of Canberra, Simon Lansdown, Jessica Sutherland and Vanessa True, with the researcher as team leader.
6. It should be noted that this disjunction does present a methodological limitation for the ACF, namely the incapacity for the method to focus attention on these points of ‘punctuated equilibrium’. This issue, however, is beyond the scope of this paper.
7. In this, and subsequent dendrograms the Internet Industry Association is used to refer to the Internet Industry Association of Australia, the Australian Internet Association, and the Australian Internet Council (AIC). These groups came to form the IIA.
8. Graham was later to become secretary of Electronic Frontiers Australia.
9. The composition of the no regulation in this dendrogram (especially the close positions of the EFA and WAIA) indicates the reliability of the coding and analysis process.

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Appendix: Coding Frame Measures

This appendix includes a complete list of the coding measures used for the content analysis process. Each measure (sub-elements listed represent separate measures) was recorded on a five-point Likert scale.

[A] Deep Core
1. Relationship between humans and society: anarchy — communitarianist
2. Human nature: evil — good
3. Basic criteria for distributive justice: egoist — pre-eminent importance
4. Importance of:
   a. Child protection
   b. Defence of community values
   c. Personal liberty
   d. Freedom of speech
   e. Privacy

[B] Policy Core
1. Legal nature of the policy area:
   a. Criminal versus civil
   b. Economic versus personal
1. Cognitive nature of the policy area:
   a. Capacity for the policy area to be defined
   b. Capacity for the participants to be defined
1. Type of policy area
2. Problem definition
   a. Relative degree of problem
   b. Urgency of problem
1. Government intervention:
   a. Domain/jurisdiction for intervention
   b. Basic policy mechanism for intervention
1. Ideological view of intervention: no government intervention acceptable — total necessity for government intervention
2. Capacity of government to understand policy area:
   a. Capacity of policy-makers/political elites to understand policy area
   b. Capacity of public servants to understand policy area
1. Capacity of government to solve problem
2. Capacity of technology to solve problem
3. Solution to problem: total reliance on human intervention — total reliance on technological solution

[C] Secondary Aspects
1. Acceptability of existing legal codes/legislation/regulatory frameworks to online environment/issues
2. Capacity to identify:
   a. People using online services
   b. Actual content being transmitted via online services
1. Most common user metaphor for policy area:
   a. By speaker
   b. Policy reference area
1. Relative importance measures
   a. Computer intrusion
   b. Carding
   c. Data/software piracy
   d. Electronic stalking/harassment
   e. Child protection
   f. Degradation of women
   g. Violent computer games
   h. Hate speech
   i. Bomb making (terrorism)
   j. Dissemination of subversive political information
   k. Loss of Australian content
   l. Morally/socially harmful material
1. Scope of problem:
   a. Accessibility of harmful/problematic content
   b. Number of people harmed
1. Nature of government intervention
   a. Capacity of government to act irrespective of other nations
   b. Importance of actions of other nations (ie CDA Bill, US)
   c. Duty of care for online content
1. Relative effect of intervention on:
   a. Internet industry
   b. Freedom of communication
   c. Individual legal liabilities
   d. Online communities
   e. Subculture communities (ie homosexuals)
   f. Society (generally)
1. Complexity of policy area
2. Capacity of government to regulate policy area
3. Relative capacities to regulate content:
   a. Australian Broadcasting Authority
   b. National Office for the Information Economy
   c. Police service(s)
   d. Office of Film and Literature Classification
   e. Austel
   f. Department of Communications and the Arts
   g. Other

1. Relative capacity of technological solutions:
   a. Software controls on browsers (ie Netnanny)
   b. Browser rating systems (ie PICS)
   c. ISP controls (ie 18+ user accounts only)
   d. Managed safe areas (ie familynets)
   e. Other

1. Relative capacity of human solutions:
   a. User self-regulation
   b. Industry self-regulation
   c. Criminal sanctions/legal prosecution
   d. Parental monitoring/supervision
   e. Public information/education
   f. Other

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