

SINGAPORE MEDIA LAW UPDATE

RECENT DEVELOPMENTS

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New industry codes released by NIAC

[139] The National Internet Advisory Committee (NIAC) recently released two major industry initiatives for the Internet that seeks to promote the development of a robust industry self-regulation framework in Singapore and spur greater confidence in the use of the Internet. At a news conference held on 5 February 2002, the NIAC released its latest Annual Report containing details of two major voluntary codes — a Model Data Protection Code for the Private Sector and an Industry Content Code — which the NIAC hopes will eventually be widely adopted by the industry.

Background to the NIAC

The NIAC was formed on 15 August 1997 to advise the Singapore Broadcasting Authority (SBA) on the regulation of electronic information services and the development of the industry. More specifically, the NIAC was tasked to assist the SBA in the development of its regulatory framework for the Internet. Members of the NIAC are drawn from a wide cross-section of society, presumably as a result of the SBA's hope and desire that its regulatory framework adequately takes into account the needs and concerns of a wide cross section of society.

The broadly stated Terms of Reference of the NIAC are as follows:

- to provide feedback and advise on the SBA's policies and regulatory framework;
- to advise on the SBA's content guidelines;
- to advise on concerns raised by the public and the industry;
- to advise on the SBA's public education initiatives;
- to advise on promotion and growth of the industry; and
- to advise on the impact of technological developments and related issues.

Model Data Protection Code for the Private Sector

The NIAC revised its earlier E-Commerce Code into a more comprehensive Model Data Protection Code for the Private Sector. The Model Data Protection Code is a voluntary Code outlining NIAC's views on what constitutes 'fair information principles'. The Code, which is touted as being modelled on internationally recognised standards, serves to establish minimum standards for electronic data [140] protection and promote the harmonisation of data protection principles among the various sectors. The Model Data Protection Code provides for 11 data protection principles, differentiated roughly according to the different stages of data processing: accountability; identifying purposes; consent; limiting collection; limiting use, disclosure and retention; accuracy; safeguards; openness; individual access; challenging compliance; and transborder data flows (optional). It is the NIAC's view that the Model Data Protection Code will help facilitate the growth of electronic commerce in Singapore and render the establishment of any data protection regime an easier task in the future.

The NIAC has also held discussions with the National Trust Council (NTC) — an industry led and government supported body formed in 2001 that aims to build confidence in e-transactions among businesses and consumers and promote e-commerce growth in Singapore. NTC has agreed to adopt the Code and lead a public consultation effort between 7 February 2002 and 6 May 2002 to seek wider feedback on the Model Code from the industry as well as members of the public.

Industry Content Code

With a view to helping build a culture of responsibility among Internet industry members and encourage industry self-regulation, the NIAC has also developed an Industry Content Code. The Code, which was drawn up in consultation with industry members, lists down industry best practices that will complement existing regulations and codes of practice governing Internet content in Singapore. The Industry Content Code is meant to be a voluntary Code that can either be adopted by industry members in its totality, or incorporated into existing user contracts, such as the Acceptable Use Policies (AUPs) that Internet service providers have for their subscribers. The

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Singapore Information Technology Federation (SITF), which played a key role in developing the Code, has agreed to take the lead in adopting the Code into its proposed trust mark Code of Practice. It is also believed that the SITF is planning to apply to be an Authorised Code Owner (ACO) under NTC's TrustSg Program.

The main obligations of those who choose to adopt the Code are that they:

- are not to knowingly place inappropriate, objectionable or illegal content on the Internet;
- are to use their best efforts to ensure that no content deemed unsuitable for minors is made available to them freely on their service;
- shall adopt an appropriate content classification system to rate and label their websites where possible;
- shall not use inaccurate or misleading descriptors to rate and label their websites;
- shall respect the privacy or confidentiality of user details;
- shall not send unsolicited emails;
- shall comply with the Singapore Code of Advertising Practice published by the Advertising Standards Authority of Singapore;
- should support public education initiatives and to make available, wherever possible, information on filtering solutions and other content management tools; and
- should establish a process to address and investigate any public feedback or complaints including cooperating with other industry members to carry out any remedial action(s) required.

The NIAC is of the belief that industry adoption of the Industry Content Code will send a strong signal to the public that the Internet industry is prepared to act responsibly and commit itself to protecting users, especially the young, from harmful Internet content. In this respect, the NIAC has taken the view that the best way forward is not to tighten regulations. Instead, the industry should develop and adopt best practices and codes of conduct that will help address the public concerns over the dangers that exist in cyberspace.

[141] *MediaCorp TV Fined for Breaching the Free-To-Air TV Program Code by Airing the Chu Mei-Feng Sex Scandal Footage on Channel 8 News*

On 22 February 2002, it was announced that the Singapore Broadcasting Authority (SBA) has imposed a fine on MediaCorp TV for showing what was considered to be inappropriate footage taken from the Chu Mei-Feng sex scandal video on Channel 8's News 8 At Ten. Chu is the Taiwanese woman who is at the centre of a high-profile sex scandal. Chu, a former Taipei city councillor and former head of Hsinchu city government's cultural affairs department, gained notoriety after secret video footage of her sex romp with a married lover was distributed through the region and on the Internet.

The news program, which was aired on 3 January 2002, contained a report that featured the Chu Mei-Feng sex scandal and the sale of illegal VCDs in Singapore that contained images of Chu engaging in sex with her lover. The segment that was aired on Channel 8 ended with excerpts from the illegal VCD, of Chu and her lover in bed. After the broadcast, some members of the public wrote to the press and the SBA and voiced their disapproval and unease about the featured footage. Many who wrote in to the press and the SBA felt the featured footage was pornographic and offensive.

Based on these complaints, the SBA reviewed the matter. Even though it was observed that the selected visuals in the featured segment were pixellated to blur the nudity, the SBA formed the view that it was still obvious that the couple were naked and engaging in foreplay. The SBA made a finding that the visuals were highly sexually suggestive and offensive to good taste and decency. The SBA considered the news segment to be in breach of the Free-To-Air (FTA) TV Program Code as it failed to comply with the stipulated guidelines which disallow nudity on TV and require sexual matters to be treated with discretion and good taste. The SBA was also of the view that the use of the selected video footage was sensationalistic and meant to titillate.

Taking into account the severity of the breaches and taking into consideration MediaCorp TV's explanation on the matter, the SBA was of the opinion that a penalty was warranted. MediaCorp TV was, accordingly, issued a compounded fine of \$10,000.

As background information to the action taken the SBA, the reader should note that the SBA introduced financial sanctions for programming breaches on TV and radio on 1 November 1998 and 1 May 1999 respectively. The objective of a financial penalty is to facilitate observance of the Program and Advertising Codes, which require TV and radio broadcasters to maintain quality programming and appropriate standards of public broadcast. This includes the need to be sensitive to issues of public concern such as religion, sex, violence, foul language and family-viewing times. According to information made available on its website, the SBA has — since 1999 — issued penalties for seven other programming breaches which were committed by free-to-air TV and radio licensees.