**Evolution of Content Regulation Legislation in Australia**

For background on online content regulation prior to the 2021 changes, see:

* Video Overview of Online Content Regulation in Australia by [Nicolas Suzor](https://www.youtube.com/watch?v=MXx8E2jnyGg)
* [Code for Industry Co-Regulation in Areas of Mobile and Internet Content](http://www.acma.gov.au/~/media/Content%20Classification/Regulation/pdf/Internet%20Industry%20Codes%20of%20Practice%202005.PDF) (2005)

For a summary of key changes to the content regulation legislation in Australia see the Table below:

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| **Event** | **Year** | **Aims** | **Positives** | **Critiques** |
| *Broadcasting Services Act 1992* | 1992 | Legislation enacted to regulate radio and television. | * The Act was the first step in content regulation. It aimed to protect public interests whilst balancing the freedoms of the broadcasting sector. * The Act set out rules for advertising rules, licensing and diversity in broadcasting. | The legislation was the first step towards content regulation, however, it is now outdated and limited in its scope because of digitalisation. |
| Australian Broadcasting Authority (**ABA**) investigated the content of online services in 1995. The ABA reported on the investigation in 1996.  The Government introduced 47 legislative principles for a National Framework in 1997. | 1997 | * “Material accessed through online services should not be subject to a more onerous regulatory framework than ‘off-line’ material such as books, videos, films and computer games”.[[1]](#footnote-1) * Development of industry codes of practice by Australian online service providers and incorporating a complaints procedure. * Development of the Platform for Internet Content Selection (**PICS**). * The ABA also established a Children and Online Task Force. This task force aimed to minimise children’s exposure to inappropriate material but encourage children to use the internet for positive reasons. | * The investigation raised community awareness about the potential risks and benefits of the online world. * The investigation laid the groundwork for the development of future legislation and policy surrounding online content regulation. | * The report made over 200 submissions but only 47 were introduced. The complete ABA report is no longer available for public to access. * Electronic Frontier Australia (**EFA**) pushed back against the report. They considered that the introduction of industry codes as a means of forcing compliance was unworkable. EFA was also against the use of PICS. |
| *Broadcasting Services Act 1992*, Schedule 5 | 1999 | * A self-regulatory scheme was legislated. The ABA (later renamed the Australian Communications and Media Authority (**ACMA**)) was the agency responsible for enforcing the rules. * The Schedule has 3 main aims:  1. Regulation of ISPs and ICHs through the industry codes of practice and complaints mechanism. 2. State/territory and federal laws imposing obligations on producers of content and people who upload or access content. 3. Non-legislative measures, including community education. | The non-legislative measures were supported by both the ABA and the government. | * Compliance with industry codes is not compulsory until the ABA requires same. * Schedule 5 was found to require further development on filtering technologies to reduce inappropriate material, including racist and pornographic material. |
| National Filter Scheme | 2007 | The Government introduced the NetAlert Program which ACMA was responsible for. The outreach and research program included:   * Providing information on internet safety; * Providing awareness campaigns and activities including in schools; * Continuing review of filtering technology; * Reporting annually to the government on internet filtering technologies.   The scheme was axed in 2008. | Educated both parents and children on the importance of cyber safety. | * NetAlert was adopted by 12% of the target market. * By the time the scheme was shut down in 2008, only 1% of Australian parents were using the software. * Filters easily penetrable. * Enormous costs - $189 million on the program and a further $22 million on advertising. |
| Content Services Code 2008 | 2008 | * Provide guidelines for designated content/hosting service providers and assist with their legal compliance. * Provide a clear and efficient self-regulatory content assessment regime. * Encouraging appropriate online usage. * Provide a transparent complaint handing mechanism. | * The Services Code provided a more consistent approach to content regulation. * The Code specifically focuses on protecting children. | * The Code adequately dealt with traditional online media such as websites, however, is limited in its effectiveness with respect to social media. * As the Code is self-regulatory, adherence to standards is entirely voluntary. |
| *Enhancing Online Safety for Children Act 2015* (Cth) | 2015 | * The legislation established the Office of the Children’s eSafety Commissioner to help protect children from cyberbullying harm. * In 2017, an amendment to the legislation broadened the role of the eSafety Commissioner to “reflect the broader role for online safety that the Commissioner has that goes beyond online safety for Australia children. This broader role includes functions in relation to persons at risk of family or domestic violence, in relation to victims of the non-consensual sharing of intimate images, and in relation to the safe use of the internet by older Australians”.[[2]](#footnote-2) | * The eSafety Commissioner is the world first government agency that aims to keeping the community safe online. * The eSafety Commissioner has powers under content regulation laws as well as Commonwealth *Criminal Code Act 1995*. | Despite the introduction of the eSafety Commissioner, inappropriate content continued to rise, including pornographic, racist and abhorrent violent material. |

Australian digital content regulation is now governed by the *Online Safety Act 2021* (Cth), which has had many developments since its enactment. The Act is covered throughout this chapter.

1. Senator the Hon R Alston, Minister for Communications and the Arts, “Joint Media Release”, Media Release, 15 July 1997. [↑](#footnote-ref-1)
2. Explanatory memorandum to the Enhancing Online Safety for Children Amendment Bill 2017. [↑](#footnote-ref-2)