



INTERNET WATCH FOUNDATION SUBMISSION IN RESPONSE TO GOVERNMENT CONSULTATION PAPER ON EXTREME PORNOGRAPHIC MATERIAL

1. Introduction

The core remit of the Internet Watch Foundation (IWF) is to minimise the availability of potentially illegal internet content specifically:

- 1) images of child abuse hosted anywhere in the world;
- 2) criminally obscene content hosted in the UK;
- 3) criminally racist content hosted in the UK.

Since the proposed new offence is modelled on an existing offence which is at the heart of the IWF's operations, we feel it is appropriate for us to comment on some aspects of the consultation paper.

2. Background information

- 1) The IWF is predominately an internet and mobile industry funded self regulatory body working in partnership with many organisations who have a shared interest in internet affairs, the Government and law enforcement agencies in operating a national hotline for the public and IT professionals to report their exposure to the type of content set out in the introduction. In the event of potentially illegal content being traced to servers in the UK then the IWF alerts the relevant police agency and issues a notice to the relevant hosting provider to take the content down.
- 2) For the avoidance of any doubt the IWF deals with content not suspects.
- 3) The IWF has not identified any criminally obscene content that might fail the Obscene Publications Act threshold hosted on UK servers in the last two years and our current remit with regard to obscenity is restricted to UK hosted content only.
- 4) It is almost impossible to estimate how this statistic might change with the introduction of a possession offence because it seems that little attention has hitherto been given to content published in the UK that appears to have no underlying commercial motive.
- 5) Most of the criminally obscene reports (not child abuse content) that we process relate to content hosted abroad but 12% of all those content allegations would fail the current UK test of criminally obscene if hosted in the UK and would fail the simple 'possession' offence proposed.
- 6) There are no reciprocal arrangements with any other country to exchange information on criminally obscene content.
- 7) There is no UK national police unit currently dealing with obscenity issues.
- 8) A search on the internet using the word bestiality returns thousands of hits, the top one being a website of humans engaged in sex acts with animals which is hosted in Denmark. A similar search for images only returns hundreds of pictures depicting bestiality.

3. Response

- 1) As a self-regulatory body, it is not appropriate for the IWF to take a view on whether any particular material should be illegal or not as this is a matter for Government and Parliament, however, if there is to be a new offence of possessing certain forms of extreme pornography then the proposed legislation needs a clear definition of which activities are considered potentially illegal.



- 2) We welcome the clarification that any new offence would only apply to pornographic material and that measures will be included to ensure an adequate defence to possession in appropriate situations.
- 3) A Memorandum of Understanding or similar agreement along the lines of the MoU associated with S.46 of the Sex Offences Act 2003 will be necessary to protect employees whose work may expose them to potentially illegal pornographic content.
- 4) If Government is minded to legislate, then the categories of material listed in paragraph 39 seem broadly reasonable and could be justified by the rationale that, in all such cases (as in child abuse images), there is no consent or the absence of consent can reasonably be inferred.
- 5) However, given our experience of assessing pornographic content we would want to see more clarity as to whether certain images would or would not be covered by the proposed new offence, specifically the masturbation of animals and images depicting people tied to apparatus, being apparently electrocuted, cut with knives, or pierced with implements, needles or hooks.
- 6) The categories of content referring to serious violence in a sexual context and serious sexual violence deserves much greater clarity as the interpretation of the definition of grievous bodily harm tends to lead to divided opinions which in the context of the proposed legislation is very unhelpful.
- 7) Although ultimately it is a legal judgement, our preference would be for a free-standing offence as set out in paragraphs 49-51, since our involvement in applying the Obscene Publications Act would suggest that amending this Act would be likely to cause confusion and inconsistency.
- 8) Government might wish to take a view as to whether it wishes there to be a central reporting body for the public and IT professionals to use in respect of reporting online extreme pornographic content similar to the current IWF arrangement and, related to this, whether there should be a national police unit for such a central reporting authority to partner with.
- 9) If the Government was minded to approach the IWF to be such an authority, it would be useful to understand how the Government thinks such processes would be funded and implemented, noting that, since material allegedly involving incitement to racial hatred was included in IWF's remit in 2000, the multi-agency partnership structures anticipated have not worked satisfactorily from IWF's point of view.

4. Contact information

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