



## **Ireland: Milestones in Online Self-Regulation**

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In Ireland, strategies against illegal use of the Internet rest largely on self-regulatory initiatives and two significant milestones have been reached in the past months in this connection. In January, the *Internet Service Providers Association of Ireland (ISPAI)*, issued its first Code of Practice and Ethics.<sup>[1]</sup> The beginning of the year also witnessed the publication of the first report of the *Irish (child pornography) hotline service*, covering the period from its inception in November 1999 to June 2001.<sup>[2]</sup>

#### **1. ISPAI Code of Practice and Ethics**

The ISPAI was established in 1998 to coordinate the development of the Internet Service Provider industry and to act as a representative body for relevant interests. The guiding principles of its recently-devised Code can be neatly summarised as end-user empowerment, the responsabilisation of content and service providers.

##### *a) Purpose*

It begins with a definitional section in which "illegal" is held to include all content "which is contrary to criminal law". "Harmful", in turn, is defined as: "[C]ontent which includes any unlawful, libellous, abusive, offensive, vulgar or obscene material or any activities deliberately calculated to cause unreasonable offence to others, which whilst not necessarily illegal, is none-the-less considered inappropriate and deliberately calculated to cause unreasonable anxiety inconvenience or stress to others". The Code therefore has a broader aim than that of tackling material that is beyond the pale of legality: it is also concerned with various forms of legal, but nevertheless, objectionable material. It does not, however, purport to be legally-binding or coterminous with the law; rather, its role is merely to govern the conduct of ISPAI Members.

##### *b) Means*

The General Requirements of the Code strive towards ensuring that services (excluding third-party content) and promotional material

- (i) do not contain anything illegal, or misleading on account of their inaccuracy, ambiguity, exaggeration, omissions, etc., and
- (ii) do not promote or facilitate any practices which are contrary to Irish law.

Members are also required to ensure that services and promotional material are similarly devoid of any expressions of incitement to "violence, cruelty, racial hatred or prejudice and discrimination of any kind". They are further obliged to do their utmost to draw customers' attention to the provisions of the Code and in particular to its complaints procedure.

##### *c) Acceptable Use Policy*

Members are also required by the Code to elaborate and enforce an Acceptable Use Policy, the purpose of which would be, once again, to work towards the elimination of

illegal and objectionable material available online. This obligation includes specific measures concerning the Irish hotline service (see 2. below), entailing compliance therewith (in particular when requested to remove “specified potentially illegal material from web-sites or newsgroups being hosted by Members”) and the promotion thereof. In addition, Members must follow best industry practices in offering filtering software and services to customers. Optimal privacy protection (to include adherence to the Data Protection Act 1988, and the posting of a privacy statement on each Member's main website) and optimal use of anti-spamming software ought to be strived for and extensive cooperation against hacking is also envisaged. As regards advertising and promotional material, ISPAI Members are expected to respect the relevant standards supervised by the [Advertising Standards Authority for Ireland \(ASAI\)](#), an independent, self-regulatory body set up and financed by the advertising industry.

#### *d) Complaints Procedures*

Detailed complaints procedures, emphasising promptitude and reasonableness, are set out in the Code. In the event of a Subject Member being found to be in breach of the Code pursuant to a Complaints Hearing (the ultimate culmination of the complaints procedure), a range of sanctions may be applied by the Board of Directors of ISPAI, having due regard for all relevant circumstances. These include

- the requirement to remedy the breach within a reasonable, specified time;
- the requirement of a written assurance from the Subject Member concerning its future conduct;
- the suspension of the Subject Member; the convening of an Extraordinary General Meeting of ISPAI to consider the expulsion of the Subject Member and finally, where the Subject Member has been suspended or expelled from the Association, the publicising of that fact.

## **2. First Report of Hotline**

#### *a) Background*

The hotline service, <http://www.hotline.ie>, was set up in November 1999 by the Internet Service Providers in Ireland in order to combat child pornography on the Internet. As such, it was a response to the July 1998 Report of the Working Group on the Illegal and Harmful Use of the Internet, appointed by the Department of Justice, Equality and Law Reform.<sup>[3]</sup> One of the mainstays of the Working Group's Report was the promotion of self-regulatory mechanisms by Internet Service Providers for tackling the problem of Internet use for the dissemination of illegal and harmful material. Indeed, this approach has also won the approval of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. <sup>[4]</sup>

The publication of the Working Group's July 1998 Report coincided with the enactment of the Irish Child Trafficking and Pornography Act, 1998 (Act No. 22 of 1998, enacted on 29 June 1998).<sup>[5]</sup> Section 5 of this Act renders it an offence for anyone to knowingly produce, distribute, print, publish, import, export, sell or show any child pornography; to knowingly publish or distribute any advertisement for child pornography; to encourage or knowingly cause or facilitate any of these activities or to knowingly possess any child pornography with a view to its distribution, publication, exportation, sale or show.

#### *b) Content*

According to the First Report of the hotline service, 671 complaints were lodged between November 1999 and June 2001. The Report offers a break-down of the nature and origin of these complaints: the overwhelming majority concerned the content of webpages (as opposed to e-mail, spam, chat, etc.) and were reported directly via the hotline website (as opposed to being communicated by e-mail, telephone, ordinary mail, etc.). The Report also explains the *modus operandi* of the hotline service (the investigation,

tracking and management of reports, archiving of material, publicising of its activities and staff selection) and stresses the importance of its concerted activities with other interested parties at the national level, eg. the Internet Advisory Board, An Garda Síochána (the national police force), Internet Service Providers and the Data Protection Commissioner.

*c) Network of Hotlines in Europe*

The Irish hotline service also engages extensively with international organisations sharing its objectives. [The INHOPE Association](#), which aims to eliminate illegal material (most notably child pornography) from the Internet by facilitating cooperation between European Internet Hotline operators, is a prime example of such an international organisation. Furthermore, the continued growth of the Irish hotline is very much in keeping with other developments at the international level. The European Commission, for instance, recently decided to accord the Safer Internet Action Plan a two-year extension and an additional budget of 13.3 million Euros.<sup>[6]</sup> This means that the present Action Plan (1999-2002; with a budget of 25 million Euros), which has been central to the European Union's efforts against illegal and harmful content on the Internet, will now continue until the end of 2004. The objectives of the Safer Internet Action Plan include the fostering of a safer online environment, *inter alia*, by establishing a network of hotlines in Europe and by promoting self-regulation.<sup>[7]</sup>