

IAB formally engages FPB on online censorship

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The Interactive Advertising Bureau South Africa (IAB) has formally engaged the Film and Publications Board (FPB) regarding the latter's recently gazetted Draft Online Regulation Policy and has met with FPB CEO, Themba Wakashe, to discuss the IAB's concerns with the document. The Draft Policy, as currently tabled, has potentially far-reaching implications for free speech in South Africa, and doesn't address a large number of operational challenges the FPB will face in attempting to implement and enforce it against the backdrop of an increasingly digitally-enabled and -active population.

The FPB's policy has attracted criticism and controversy, with a number of commentators calling into question its constitutionality, lawfulness and practicality. At its core, the policy requires the pre-classification, *prior* to publication, of any *"film, game or certain publication"* according to the FPB's guidelines, and explicitly includes within its scope user-generated content distributed via social media platforms. The definitions of "film" and "certain publication" are broad enough to cover video or content in almost any form (including news and current affairs content).

The FPB has further purported to grant itself vague and extensive censorship powers via a provision that requires that, *"with regard to any other content distributed online, the Board shall have the power to order an administrator of any online platform to take down any content that the Board may deem to be potentially harmful and disturbing to children of certain ages"*.

Anyone who publishes - or facilitates the publication of - content, be it Google, Apple and Facebook, South Africa's ISPs and news media, and even individual bloggers and small businesses operating from bedrooms and basements, stands to be caught in the FPB's wide net.

The IAB is a non-profit organisation dedicated to the growth of digital business in South Africa, and represents over 200 of the country's largest and most influential online publishers, brands, digital advertising and media agencies, and educational institutions, all of whom create and publish content in some form or another. Notable members include Google, Vodacom, Nedbank, Woolworths, OLX, takealot.com, the 24 Group, Mail and Guardian, eTV, eNCA, BBC, SABC Online, Independent Online, Times Media, Kagiso Media and Caxton. The Draft Policy threatens not only the individual freedom of expression currently enjoyed by digitally-active South African businesses, but also poses an obstacle to the growth and health of the country's burgeoning online industry.

"We absolutely share some of the FPB's concerns relating to unfettered access of children to harmful and dangerous content on the internet", says Andrew Allison, Head of Regulatory Affairs at the IAB, "but we disagree with the manner in which the FPB is proposing to address this. The overwhelming majority of content disseminated via digital media is *not* harmful, and the mechanisms contained in the Draft Policy are unduly onerous and excessive".

The IAB will be making formal submissions to the FPB regarding the Draft Policy before the given deadline of 15 July 2015.

Allison adds, "Notwithstanding our issues with the Draft Policy, we have expressed our willingness to cooperate with the FPB in addressing our shared concerns, and are committed to working with them, and with other stakeholders and interest groups, to develop workable, fair and constitutionally-sound solutions".

Since 2014, the IAB has been working with the South African National Editors Forum (SANEF) and Press Council on a proposed revision of the Press Code and upgrades to the current Press Council to create a voluntary, self-regulatory body that will promote and demand high standards and quality of editorial content from local publishers, irrespective of the medium (print, online or otherwise) via which it is communicated.

Allison concludes, "We believe that this augmented Council will responsibly and properly address the majority of concerns that the FPB's Draft Policy is trying to tackle. As a collective of industry players across various sectors, we know that we are best placed and equipped to deliver a standard of content in South Africa that fairly balances our constitutionally-enshrined freedom of expression with our shared desire to protect our children from harmful material".

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