



Australian Government

Department of Broadband,
Communications and the Digital Economy

INTERNET SERVICE PROVIDER CONTENT FILTERING PILOT

REQUEST FOR EXPRESSION OF INTEREST

ISP filtering Pilot

The ISP filtering Pilot will test a range of content filtering solutions in a real world environment, with the cooperation of ISPs and their customers. The outcomes of the Pilot will inform the Government's decision making on the ISP filtering framework.

Why should ISPs participate in the pilot?

The Government intends to take an evidence based approach to content filtering at the ISP level. The participation of the industry is crucial to providing evidence on the real world impacts for ISP content filtering, including on ISPs and their customers.

Participation in the Pilot provides ISPs with an invaluable opportunity to inform the Government's approach to ISP filtering. Arrangements for participation in the Pilot will be agreed on a case by case basis.

ISPs will be recognised for their participation in the Pilot. This recognition will strengthen their brand image with the community.

The Pilot is being designed, in consultation with industry, to minimise imposts on ISPs. To this end Enex TestLab has been contracted to run the Pilot in a manner consistent with minimising imposts on ISPs.

Limited funding is available – for ISPs participating in the Pilot – to help defray the costs associated with the purchase and installation of content filtering equipment. Any solutions (including equipment and software) purchased that relate to participation in the Pilot will remain the property of the ISP at the conclusion of the Pilot.

Participating ISPs will be able to charge their customers on a commercial basis for more advanced filtering solutions (that is, solutions beyond blocking of the Australian Communications and Media Authority (ACMA) blacklist). This will provide the opportunity for ISPs to test new filtering business models with the assistance of the Government and the Department of Broadband, Communications and the Digital Economy's (the Department) technical advisor, Enex TestLab.

Background

The Government's *Cyber-safety Plan* consists of a range of initiatives designed to educate and empower the community to address online dangers.

Funding has been provided for: education and outreach initiatives, law enforcement activities to address online exploitation of children, improved help lines and websites, ongoing research to inform future policy, PC filtering, and to undertake an ISP filtering Pilot.

ACMA Laboratory Trial Report – June 2008

ACMA has recently undertaken a laboratory trial of ISP filtering technology. The report concluded that the state of ISP-level filtering technology has significantly advanced since the previous trial was undertaken in 2005.

The report, [*Closed Environment Testing of ISP-Level Internet Content Filtering*](#), was released by the Minister for Broadband, Communications and the Digital Economy on 28 July 2008.

The Pilot

Overview of the Pilot

The Pilot is aimed at testing and assessing ISP level filtering in a real world environment by working with ISPs and their customers.

The intention is to assess the impact of ISP content filtering on both fixed and mobile internet access devices.

Ideally, in order to obtain a comprehensive set of results, the Pilot will involve a representative cross section of industry; for example:

- Large, medium and small ISPs;
- Metropolitan, regional and remote ISPs;
- Wireless, satellite and mobile internet providers; and
- Broadband and dial up customers.

Pilot Outcomes

A number of reports will be provided by Enex TestLab which will assist the Government in its consideration of the implementation of ISP filtering. Information relating to particular ISPs will not be directly attributed to them in these reports (note disclosure of information provisions in the draft Deed of Agreement).

Technical Assessment

Enex TestLab is working with the Department in conducting the live Pilot, and has been tasked with conducting the technical assessments, including drafting a number of reports on the results of these assessments.

More details on the proposed technical testing parameters is available on the Department's website at www.dbcde.gov.au

Participation options

ISPs are invited to participate through two streams:

1. Filtering the ACMA blacklist of prohibited URLs; or
2. Filtering the ACMA blacklist, and also providing additional content filtering e.g. dynamic filtering of other unwanted internet content and non web based applications (such as peer-to-peer networks).

The applicant has the discretion of choosing their preferred stream and the type of filtering solution they propose to implement.

Participating ISPs will still have the option of charging their customers where they propose to offer filtering solutions beyond filtering the ACMA blacklist.

ISPs can nominate to participate with or without funding.

ACMA blacklist

The ACMA blacklist of prohibited or potentially prohibited internet content operates under Schedules 5 and Schedule 7 of the *Broadcasting Services Act 1992* via a complaints based mechanism. Following a complaint, content that is hosted overseas and is assessed as prohibited or potentially prohibited is included on the ACMA blacklist. Australian based content assessed as prohibited is subject to a 'take down' notice.

In addition, regardless of where the content is hosted, if ACMA considers the content to be of a sufficiently serious nature it must notify the content to an Australian police force.

A more comprehensive ACMA blacklist of content of the sexual abuse of children is being developed as part of the Government's cyber-safety plan. ACMA is liaising with the UK based Internet Watch Foundation, and the US based Cybertipline, for access to their blacklists of such material. In the medium term, this may see the ACMA blacklist increase in size.

Successful applicants will need to install the ACMA blacklist on their filtering solution. To gain access to the blacklist the successful ISP and, if appropriate their filter vendor, will be required to enter into a non disclosure agreement with ACMA.

ACMA will then provide a copy of the blacklist and any updates for the duration of the Pilot.

ACMA can be contacted at: online@acma.gov.au.

Funding

The Government has provided some limited funding in the 2008-09 Budget to help defray the costs for ISPs who wish to participate in the Pilot.

This funding assistance is related to participation in the Pilot, and therefore involves reimbursement of the costs associated with:

- Procurement of a filtering solution;
- Installation and configuration of the filtering solution; and
- Costs associated with any required modifications to network infrastructure.

Note: Depending on the level of interest from ISPs in participating in the Pilot, the Department may need to undertake a competitive selection process for the allocation of available funding. Additional information may therefore be sought from some ISPs. Documented evidence of expenses incurred will also be required.

GST on funding agreements

The Goods and Services Tax (GST) is generally applicable to funding agreements where applicants are registered for GST. Applicants are required to be registered for GST if they have a gross annual income which exceeds \$75,000 (or \$150,000 for non-profit organisations). In such cases, the grant will only be paid after receipt by the Department of a correctly rendered tax invoice.

Under GST arrangements tax invoices must be held by the Department to enable the input tax credits for GST paid to be claimed. Applicants therefore will be required to provide a correctly rendered tax invoice for the full amount of the payment by the date specified in the funding agreement.

Duration of the Pilot

The intention is to commence the Pilot before the end of 2008, although some ISPs may be able to start later.

Ideally, ISPs will participate in the Pilot for a minimum of 6 weeks. ISPs who commence earlier will have the discretion to participate in the Pilot until its conclusion.

ISPs who wish to continue to offer a filtering service to their customers following the conclusion of the Pilot are encouraged to do so.

Eligibility

Participation in the Pilot is open to all ISPs that provide an internet service to persons residing in Australia (including relevant mobile telephone operators).

Note: For the purposes of the Pilot, if a person supplies an internet carriage service to the Australian public, the person is an ISP.

Application Form

The Application Form is available from the Department's website at www.dbcde.gov.au

Applicants should endeavour to complete all questions.

Contractual matters

A draft Deed of Agreement with the Department is available from the Department's website at www.dbcde.gov.au. ISPs formally participating in the Pilot will enter into a mutually agreed Deed.

The draft Deed is subject to negotiation and agreement between the Department and each participating ISP. If an ISP has any concerns with aspects of the draft Deed, including terms and conditions that the ISP would like included, this should be noted in the Application Form. The Department will consider the issues noted by the ISP and may enter into further discussions with the ISP about the issues raised.

Note: The Department reserves the right to withdraw from negotiations if agreement cannot be reached. A concluded Deed of Agreement will supersede this 'Request for Expression of Interest' if there is any inconsistency between them.

Participation in the Pilot

The intention is to minimise the impost on ISPs from their participation in the Pilot. For example, Enex TestLab will be responsible for running the Pilot and drafting the reports that emanate from the Pilot.

As noted previously, the Pilot is intended to inform the Government's decision making. To achieve this objective it would be preferred if the following aspects of the Pilot are met by participating ISPs. The particular circumstances of an individual ISP's participation will be agreed between the Department and the ISP.

Filtering

A filtering solution should be installed that blocks the ACMA blacklist or alternatively, blocks the ACMA blacklist and includes additional filtering solutions at the ISP level. These could include filtering of web based content not included on the ACMA blacklist or the filtering / blocking of non web based applications.

ISPs can propose filtering solutions which involve the development of an in-house solution or through an arrangement with a filter vendor. This can be a new or existing filtering service.

Access arrangements

To undertake the assessment of the filtering solution it is envisaged that suitable arrangements will be entered into between the ISP and the Department. To the extent possible this would not involve physical access to an ISP's internal network or systems and would at a minimum be via a 'live sample of the filtered service' and a 'sample unfiltered service'.

An alternative to this would be, if possible, to undertake an assessment prior to the installation of the filtering solution and then with a filtering solution throughout the course of the ISP's participation in the Pilot.

Customer surveys

The intention is for one of the components of the Pilot to be the assessment of the end users' filtering experience. This will involve a survey of a sample of the ISP's customer base following consent from the ISP's customers.

It is anticipated that participating ISPs will assist the Department and Enex TestLab in undertaking these surveys. This may involve Enex TestLab surveying customers directly (following their agreement), or having the surveys facilitated by the ISP. Surveys will be designed to be delivered electronically.

Length of participation

As noted above, to provide for reliable data it would be preferred if ISPs are able to participate in the Pilot for at least 6 weeks.

Question and Answer period

ISPs will have the opportunity of seeking clarification on any matters concerned with the Pilot through a formal question and answer period. Questions should be lodged via email at

ISPPilot@dbcde.gov.au by no later than 18 November 2008. Written responses will be provided to all questions by 25 November 2008.

Questions and answers (but not the name of the organisations) will be posted on the Pilot webpage at www.dbcde.gov.au

Selection of participants

A Departmental assessment panel will be formed that will assess all applications for participation.

Note: Participation in the Pilot is at the Department's sole discretion.

As noted above, participation can be on a funded or an unfunded basis.

Note: Applicants seeking funding assistance may be requested to provide additional information.

Time frame

The indicative time frame is as follows:

Release of 'Request for Expression of Interest'	10 November 2008
Closing date for questions	18 November 2008
Answers on <i>DBCDE website</i>	25 November 2008
Closing date for submissions seeking to participate on a funded basis	8 December 2008
Notification of successful applicants for funding	Mid December 2008, subject to negotiation with ISPs
Commencement of the Pilot	Before end of 2008
Conclusion of Pilot	First half of 2009

Acquittal of grants

The Department is required to comply with requirements relating to the acquittal of grants. In particular, funding must be acquitted in accordance with the requirements detailed below and in accordance with the 'Deed of Agreement'.

To acquit the funding the Department requires the following information to be provided by the participant:

- Your tax invoice to us.
- Proof of expenditure of expenses incurred in order to participate in the Pilot, for example in the form of invoices, time sheets, or project costing records.
- A signed Statutory Declaration by a duly authorised officer of the organisation attesting to these expenditures.
- A signed copy of the 'Deed of Agreement'.
- A copy of the 'Acceptance Certificate' provided by Enex TestLab verifying the ISP's equipment expenditure claims.

Following acceptance of these documents by the Department the funds will be acquitted to the participant.

Payments

Successful applicants who receive funding and have not previously had financial dealings with the Department will need to complete and return a Vendor Record Data Form, which the Department will provide. All funds disbursed will be through electronic funds transfer and the form will seek your account details for this purpose. All such information will be treated with complete confidentiality.

Payment to a participant will be made no later than 30 days after the provision of a correctly rendered invoice and other relevant documentation, including an 'Acceptance Certificate' from Enex TestLab that will enable the Department to verify that the expense incurred by the ISP is directly attributable to their participation in the Pilot.

Acknowledgement

We will acknowledge your participation in the Pilot and discuss with you the practicalities of this. In addition it can be expected that the Government may wish to seek an ISP's co-operation in information events.

The following strap-line should be used when the ISP wishes to acknowledge their participation in the Pilot in their promotional/marketing activities.

"The ISP Internet Content Filtering Pilot is an Australian Government initiative."

The strap-line may be accompanied by the Australian Government logo upon approval from the Department.

Guidelines on the use of the Australian Government logo are available from www.dbcde.gov.au/logo or on request from the Department's Media and Communications unit. Note that the crest must be no smaller than 2 cm across and no other logo should be more prominent.

Note: Marketing / publicity activities of participants related to the Pilot will need to be approved by the Department prior to being undertaken.

Applicant's information

All applications become the property of the Commonwealth on submission. Information collected on the Application Form will be used for the purposes described below in the section *Privacy Statement*.

The applicant will retain the intellectual property rights in respect of their application.

The Department gives no undertaking to keep confidential information provided in the application process unless that information is clearly identified by the applicant as information that should be treated as confidential, including reasons for the request.

The Department will use the criteria set out in the Australian National Audit Office's [Report Number 38 / 2000-2001, Performance Audit - The Use of Confidentiality Provisions in Government Contracts](#), as a guide when determining whether to accept a claim for confidentiality.

If your participation in the Pilot is approved, any undertakings as to confidentiality will be included in the written agreement between the Department and the ISP.

Although the Department is generally able to maintain commercial confidentiality where there are good reasons for it, it is not able to guarantee absolute confidentiality. Our undertaking in respect of your application, and our contractual obligations to keep information confidential, do not preclude the disclosure of information where it:

- is authorised or required to be disclosed by law;
- is disclosed to the responsible Minister;
- is disclosed by the Department in response to a request by a House or a Committee of the Parliament of the Commonwealth of Australia; or
- is in the public domain otherwise than due to a breach of confidentiality by the Department.

Giving false or misleading information

The Department is a Commonwealth entity. Giving false or misleading information is a serious offence.

If an application is incomplete or contains information that is misleading, it may be excluded from any further consideration for funding.

Applicant's responsibility

Applicants are responsible for ensuring that they have examined this 'Request for Expression of Interest' and all documents referred to in this 'Request for Expression of Interest', including the 'Application Form', and have satisfied themselves that the information they have provided is complete and accurate.

Discrepancies, ambiguities, inconsistencies, errors or omissions in an application

The Department will not accept responsibility for any misunderstanding arising from the failure by an applicant to comply with the 'Request for Expression of Interest', or arising from any ambiguity, discrepancy, error or omission contained in an application.

Where there are discrepancies, ambiguities, inconsistencies, errors or omissions in an application the Department may seek clarification from the applicant.

Incomplete, late or faxed applications

The Department will endeavour to accept late applications that are not seeking funding assistance, although it reserves the right not to accept incomplete, late or faxed applications.

Freedom of Information (FOI)

All documents created or held by the Department with regard to the Pilot are subject to the *Freedom of Information Act 1982* ("FOI Act"). Unless a document falls under an exemption provision, it will be made available to the general public if requested under the FOI Act. An exemption may be claimed for commercial confidential information, and for information

subject to an express or implied agreement for confidentiality, but such claims are not conclusive.

Decisions regarding requests for access will be made by the authorised FOI decision-maker in accordance with the requirements of the FOI Act.

Privacy Statement

Information collected on the Application Form will only be used in the process of determining participation in the Pilot, and for the purposes of informing Federal Members of Parliament and the public about the grant outcomes.

Details of successful applicants which receive funding will be included on the Department's website and annual report and the *Discretionary Grants* Central Register.

In other instances the information collected can be disclosed without your consent where authorised or required by law.

The Privacy Act 1988

In administering the Pilot, the Department is bound by the provisions of the *Privacy Act 1988*. Section 14 of the Privacy Act contains the Information Privacy Principles (IPPs) which prescribe the rules for handling personal information.

Complaints about breaches of privacy and requests for advice about privacy should be referred to the contact officer through the Department's web page at: www.dbcde.gov.au/privacy or by post to the Privacy Contact Officer, Department of Broadband, Communications and the Digital Economy, GPO Box 2154, Canberra, ACT, 2601. Privacy complaints can be made directly to the Federal Privacy Commissioner, however the Federal Privacy Commissioner prefers that the Department be given an opportunity to deal with the complaint in the first instance.

Personal Information

One component of the Pilot will be to seek feedback from participating ISP's customers concerning their filtering experience. This may involve all or part of an ISP's customer base, and may involve periodic questionnaires that customers are asked to complete. To the extent possible little or no personal information on customers will be sought and end survey results will be rendered in anonymous form.

Privacy Notice

Information on the Application Form is collected in order to enable the Department to assess the suitability of an applicant's proposal for participation in the Pilot. Except for names of unincorporated business owners, which may appear in Departmental and Ministerial reports about the Pilot, the personal information collected will not be passed on. In certain instances, information on the Form can be disclosed without your consent where authorised or required by law.

Intellectual property

The Department will retain exclusive rights to the intellectual property in the data collected, material supplied by the Department, the reports, this 'Request for Expression of Interest' and the Submissions used for the selection of ISPs for participation in the Pilot, except for any pre-existing intellectual property owned or used by the applicant or consultant.

Where the applicant or consultant uses intellectual property not owned by them, they must seek permission or a licence from the intellectual property owner.

Commonwealth, State / Territory and other legislative requirements

Applicants must comply with all relevant Commonwealth, State / Territory and other legislation.

Successful funding applicants will be responsible to the Australian Taxation Office for any taxation requirements and will also need to meet their responsibilities under Corporations law, where applicable.

How to lodge an application

Applicants should complete the 'Application Form' available on the Department's website at: www.dbcde.gov.au. Please ensure that all supporting documentation is attached to your application. Applications should be lodged at a time and in a manner consistent with the guidelines outlined below in this section.

Applications may be submitted as either a hardcopy to the postal address detailed below or as an electronic copy to the email address detailed below.

Hard copies: Applicants may provide a signed original application and one unbound copy of the application, including supporting material. The original and copy must be submitted so that they are received at the specified place of lodgement by the closing date set out below in this section. The original should be identified and marked as such. Where there are discrepancies between the original and copy, the version identified as the original version shall be taken to be the correct version.

Or

Electronic copy: Applications may also be provided in electronic form (Microsoft Office Word 2003 and Microsoft Office Excel 2003 or below) on CD-ROM or emailed to the address in this section below by the closing time for applications. If there is any discrepancy between the signed hard copy and the electronic copy, the signed hard copy shall take precedence.

The Department may make such copies of the application documents as it requires for the purposes of the selection process.

All applications will be acknowledged.

Successful and unsuccessful applicants will be notified in writing. Feedback will be available to all applicants on request.

Closing time for applications

Applications are due Monday **8 December 2008** for funded applications.

The Department will endeavor to accept late applications that are seeking participation in the Pilot on an unfunded basis, but cannot guarantee that such applications will be accepted.

Address for lodging application form

Mailing address:

**Manager, ISP Filtering Section
Content Programs Branch
Department of Broadband, Communications and the Digital Economy
GPO Box 2154
CANBERRA ACT 2601**

Courier address:

**Manager, ISP Filtering Section
Content Programs Branch
Department of Broadband, Communications and the Digital Economy
38 Sydney Avenue
FORREST ACT 2603**

Email address:

ISPPilot@dbcde.gov.au

Enquiries

If you require further information regarding participation in the Pilot, please email:
ISPPilot@dbcde.gov.au

Associated documents to this 'Request for Expression of Interest'

Applicants should note that all associated documents to this 'Request for Expression of Interest' including the:

- Technical Testing Framework;
- Draft Deed of Agreement; and
- Application Form

are available at the Department's Internet Service Provider Content Filtering Pilot webpage at www.dbcde.gov.au