Australia's Online Censorship Regime
The Advocacy Coalition Framework and Governance compared

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Abstract

This study assesses the value of two analytical models explaining particular contemporary political events. This is undertaken through the comparative evaluation of two international models: the Advocacy Coalition Framework and Rhodes's model of Governance. These approaches are evaluated against an single case study: the censorship of computer network ("online") content in Australia. Through comparison evaluation, criticism, and reformulation, these approaches are presented as useful tools of policy analysis in Australia.

The first part of the thesis presents the theoretical basis of the research and the methodologies employed to apply them. It begins by examining how the disciplines of political science and public policy have focused on the role of politically-active "interest" groups in the process of policy development and implementation. This focus has lead to ideas about the role of the state actors in policy making, and attempts to describe and explain the interface between public and private groups in developing and implementing public policies. These, largely British and American, theories have impacted upon Australian researchers who have applied these ideas to local conditions. The majority of this part, however, is spent introducing the two research approaches: Paul Sabatier's Advocacy Coalitions Framework and Rod Rhodes's theory of Governance. Stemming from dissatisfaction with research into implementation, Sabatier's framework attempts to show how competing clusters of groups and individuals compete for policy "wins" in a discrete subsystem by using political strategies to effect favourable decisions and information to change the views of other groups. Governance, on the other hand, attempts to apply Rhodes's observations to the changing nature of the British state (and by implication other liberal democracies) to show the importance of self-organising networks of organisations who monopolise power and insulate the processes of decision making and implementation from the wider community and state organs. Finally, the methodologies of the thesis are presented, based on the preferred research methods of the two authors.

The second part introduces the case serving as the basis for evaluating the models, namely, censorship of the content of computer networks in Australia between 1987 and 2000. This case arises in the late 1980s with the computerisation of society and technological developments leading to the introduction of, first publicly-accessible computer bulletin boards, and then the technology of the Internet. From a small hobbyists' concern, the uptake of this technology combined with wider censorship issues leads to the consideration of online content by Australian Governments, seeking a system of regulation to apply to this technology. As the emerging Internet becomes popularised, and in the face of adverse media attention on, especially pornographic, online content, during the mid to late 1990s two Federal governments establish a series of policy processes that eventually lead to the introduction of the Broadcasting Services Amendment (Online Services) Act 1999, a policy decision bringing online content into Australia's intergovernmental censorship system.

The final part analyses the case study using the two theoretical approaches. What this shows is that, from the perspective of the Advocacy Coalition Framework, debate over online content does not form a substantive policy subsystem until 1995, and within this three, relatively stable, competing coalitions emerge, each pressuring for different levels of action and intervention (from no regulation, to a strong regulatory model). While conflict within the subsystem varied, overall the framework's analysis shows the dominance of a coalition consisting largely of professional and business interests favouring a light, co-regulatory approach to online content. From the perspective of Governance, the issue of online content is subject to a range of intra- and inter-governmental conflict in the period 1995–7, finally settling into a negotiated position where a complex policy community emerges based largely on structurally-determined
resource dependencies. What this means is that policy making in the case was not autonomous of state institutions, but highly dependent on institutional power relations. Overall, in comparing the findings it becomes apparent that the approaches lack the capacity to fully explain the role of key sovereigns, defined here as those individuals with legal authority over decision making in the policy process, because of their methodological and normative assumptions about the policy process. By showing these individuals as part of wider networks of power-dependencies, and exploring the complex bundle of real, pseudo, symbolic, and nonsense elements that make up a policy, the role of Ministers as "semi-sovereign sovereigns" can be accommodated in the two approaches.
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<tbody>
<tr>
<td>ABA</td>
<td>Australian Broadcasting Authority</td>
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<tr>
<td>ABC</td>
<td>Australian Broadcasting Corporation</td>
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<td>ABCB</td>
<td>Australian Broadcasting Control Board</td>
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<td>ACS</td>
<td>Australian Computer Society</td>
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<td>AARNet</td>
<td>Australian Academic and Research Network</td>
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<td>ACA</td>
<td>Australian Consumers Association</td>
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<tr>
<td>ACS</td>
<td>Australian Computer Society</td>
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<tr>
<td>ALP</td>
<td>Australian Labor Party</td>
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<tr>
<td>AFP</td>
<td>Australian Federal Police</td>
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<tr>
<td>AGPS</td>
<td>Australian Government Printing Service</td>
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<tr>
<td>AIIA</td>
<td>Australian Information Industry Association</td>
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<tr>
<td>AIMIA</td>
<td>Australian Interactive Multimedia Industry Association</td>
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<tr>
<td>AIA</td>
<td>Australian Internet Association</td>
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<tr>
<td>AIC</td>
<td>Australian Internet Council</td>
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<td>ARIA</td>
<td>Australian Record Industry Association</td>
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<tr>
<td>ARPA</td>
<td>Advanced Research Projects Agency Network (United States)</td>
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<tr>
<td>ASIO</td>
<td>Australian Security Intelligence Organisation</td>
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<tr>
<td>ARIA</td>
<td>Australian Record Industry Association</td>
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<tr>
<td>Austel</td>
<td>Australian Telecommunications Authority</td>
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<tr>
<td>AVCC</td>
<td>Australian Vice-Chancellors' Committee</td>
</tr>
<tr>
<td>BBS</td>
<td>Bulletin Board System</td>
</tr>
<tr>
<td>CCL</td>
<td>Council of Civil Liberties (United States)</td>
</tr>
<tr>
<td>CLC</td>
<td>Communications Law Centre</td>
</tr>
<tr>
<td>CSIRO</td>
<td>Commonwealth Scientific and Industrial Research Organisation</td>
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<tr>
<td>CDA</td>
<td><em>Communications Decency Act 1996</em> (United States)</td>
</tr>
<tr>
<td>CUDN</td>
<td>Common User Data Network</td>
</tr>
<tr>
<td>DoCA</td>
<td>Department of Communications and the Arts</td>
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<tr>
<td>DoCITA</td>
<td>Department of Communications, Information Technology and the Arts</td>
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<tr>
<td>DPP</td>
<td>Director of Public Prosecutions</td>
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<tr>
<td>EFA</td>
<td>Electronic Frontiers Australia</td>
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<tr>
<td>EJAC</td>
<td>Executive Council of Australian Jewry</td>
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<tr>
<td>FACTS</td>
<td>Federation of Australian Commercial Television Stations</td>
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<tr>
<td>HDTV</td>
<td>High Definition Television</td>
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<td>IT</td>
<td>Information Technology</td>
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<td>IAP</td>
<td>Internet Access Provider</td>
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<td>ICH</td>
<td>Internet Content Host</td>
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<tr>
<td>IntIAA</td>
<td>Internet Industry Association of Australia</td>
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<td>IIA</td>
<td>Internet Industry Association</td>
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<td>IntlAA</td>
<td>Internet Industry Association of Australia</td>
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<td>IRC</td>
<td>Internet Relay Chat</td>
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<td>ISOC-AU</td>
<td>Internet Society of Australia</td>
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<tr>
<td>ISP</td>
<td>Internet Service Provider</td>
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<tr>
<td>Lib</td>
<td>Liberal Party of Australia</td>
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<tr>
<td>NOIE</td>
<td>National Office for the Information Economy</td>
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<td>NVLA</td>
<td>National Viewers' and Listeners' Association</td>
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<td>NVE</td>
<td>Non-Violent Erotica</td>
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<td>PICS</td>
<td>Platform for Internet Content Selection</td>
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<tr>
<td>PMG</td>
<td>Post Master General</td>
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<tr>
<td>PWA</td>
<td>Presbyterian Women's Association</td>
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<tr>
<td>OFL</td>
<td>Office of Film and Literature Classification</td>
</tr>
<tr>
<td>OSCE</td>
<td>Office of Strategic Crime Assessments</td>
</tr>
<tr>
<td>OTC</td>
<td>Overseas Telecommunications Commission</td>
</tr>
<tr>
<td>RAAP</td>
<td>Religious Alliance Against Pornography</td>
</tr>
<tr>
<td>RC</td>
<td>Refused Classification</td>
</tr>
<tr>
<td>SCAG</td>
<td>Standing Committee of Attorneys-General</td>
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<tr>
<td>SysOp</td>
<td>System Operator</td>
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<tr>
<td>URL</td>
<td>Uniform Resource Locater</td>
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<tr>
<td>YMA</td>
<td>Young Media Australia</td>
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<td>WWW</td>
<td>World Wide Web</td>
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Guide to Referencing
The case study material in this thesis makes heavy use of online resources and references. While the Harvard referencing system has been used for this work, materials derived from electronic sources are referenced differently. Where possible these references include: An author or authors, the year of production or the year last updated (if available), the title of the page or site, or the subject of the email/newsgroup posting, the URL (for World Wide Web pages), and the month or date of the most recent update (for World Wide Web pages) or the date of transmission (for email and newsgroup postings). Where all of this information is unavailable, the date that the information was accessed is included and designated by the letters [linkdate].

Note Regarding Terminology
Cracking and Hacking: While the act of breaking into computer networks and systems is commonly referred to as "hacking", it is sometimes referred to as "cracking". The term "hacking" is said to refer to the act of programming or a skilled programmer and is the original source of the word, while cracking refers to the act of illegal computer intrusion. "Hacking", however, has been used to denote the act of cracking (especially in the mass media) and it is likely that this meaning will prevail in the long term. For the sake of expediency and accuracy, the terms "cracking" and "cracker" are used in this thesis to denote the act and perpetrator of the crime of unauthorised access to a computer system (Austin, 1994).

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1This meaning is now found in dictionaries such as Collins Compact Australian (1995 edition).
'and what is the use of a book', thought Alice 'without pictures or conversation?'

— Lewis Carroll, *Alice's Adventures in Wonderland*
Introduction

This thesis is concerned with understanding how public policy is made in Australia today. Essentially it seeks to better understand, and be better able to study, the processes of government in a nation where democratic institutions are only one part of wider process of rule and decision making between competing interests. Martin Painter (1998) has argued that the study of politics and the study of policy have diverged into two disciplines: one concerned the evaluation of process (political science) and the other the evaluation of content (public policy). While this neatly divides the analysis of the policy content from those processes that are politics, Painter argues this division is problematic (125)2. For in the process of policy making, he sees that "power and authority are essential ingredients" in determining the outcome of the political process and the shape of the policy document itself (similarly, see Dye, 1976:1).

Thus, in linking political science and public policy, the process of policy making can be seen as an extension and codification of the legitimate use of violence by the state, by focusing on the content of policies, and the process of power. For governments that claim a particular mandate for democratic possession of power, as in Australia, the processes of policy making allow the capacity a government's monopoly of power to serve specific interests. In this vein, Lowi sees public policy as (1970):

> deliberate coercion—statements attempting to set forth the purpose, the means, the subjects, and the objects of coercion. It implies the coming together again of policy and administration, just as it implies a recombination of government with politics.

Thus, as a discipline, political science has always been concerned with exploring and explaining the way that groups and individuals, through formal and informal mechanisms of institutions and networks, have exercised their will to power upon the environment in which they live and the society in which they reside. What this thesis attempt to show is how these desires come together to shape the process of policy making or political life.

To undertake this study this thesis examines two internationally-developed models of the policy-making process: the Advocacy Coalition Framework (ACF) presented by Paul Sabatier and the theory of Governance developed by Rod Rhodes. Development of the Advocacy Coalition Framework results from dissatisfaction with the lessons of implementation research developed and refined by Sabatier and a number of other authors in the United States and Canada. The approach focuses on the establishment and maintenance of competing "coalitions" of interest groups, government institutions / agencies, and key individuals, each attempting to realise their preferred policy options in a subsystem of political pressure, strategy, and information sharing called the "policy subsystem". This approach emphasises the medium to long term needed for successful policy analysis, and the value of understanding how political information is structured and used by groups and individuals, both as a guide to action and to influence other participants in the policy debate. Governance, on the other hand, was developed by

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2This point is also made by a range of authors, both from within the civil service, see Coombs, 1977:51, Australia, see Aitkin, 1985:32, and internationally, see Blondel, 1981:205–6.
Rhodes from his experience researching the political interface between local and central governments in Britain. The approach sees the majority of policy making on "ordinary" policy issues to be contained within "communities" of policy makers from the public and private sectors who become autonomous from central government direction. This view sees changes within modern public administration as largely reducing the capacity of the state to command policy making and implementation, leaving government the process of governance: attempting to steer policy which is developed within formal networks that are bound together by formal exchange relationships or resource-dependencies. Overall, while both approaches focus on the meso-level of analysis, and emphasise the role of groups in the political process, there are a range of theoretical and methodological differences that provide key points of departure for their analysis and interpretation of political events.

In taking these theories and applying them to the Australian environment, I hope to examine their analytical value: both in terms of their theoretical tractability to the Australian experience, and the methodology they employ to operationalise this theory. This comparative evaluation of the two approaches is explicit and results from the deliberate decision to examine these two models using a deductive scientific approach to the study. As such, both approaches are analysed against the same case study: the regulation of computer online content in Australia between 1987 and 2000. This case provides an empirical basis upon which to compare and contrast the two approaches' preferred research methodologies, their depth and breadth of analysis, the explanatory value of the models, and any mutual advantages and insights that can be provided between the approaches. Finally, this information serves as a source for positive recommendations and modifications, aimed at tailoring the models to meet with Australian conditions.

The remainder of this chapter introduces the scientific paradigm used as the basis for the research before outlining the overall structure of this book.

The Scientific Paradigm and the Research Philosophy

In presenting an overview of the "philosophy" underlying this work, I have taken to heart the warning of RN Spann in the first issue of Politics. Spann, in a summary of the clichés of political science, took umbrage at over-reaching claims of work claimed as scientific, which he saw as often covering a lack of substance (1966:3–5). To this end he stated, rather bluntly, that "political science is for the most part a fairly pedestrian subject, which has not much to put alongside the natural sciences, or great literature, or philosophy ... Hence the desire in some way or other to pep their subject up." Thus, in presenting this work as undertaking a deductive approach within what could be called the reformed positivist or minimal realist ontological tradition it is important not to over-emphasise (or "pep") the underlying connection of this work to that pioneered by the naturalists and codified by Comte. However, a brief justification for the distinction is important, as the discipline of political science has accepted a wide range of new philosophical entries and post-modern influences since Spann penned his cautionary remarks (see: Freeman and Robertson, 1980; Irving, 1985; Peters, 1996).

The scientific approach was used in this thesis for four reasons: First, and most obviously, in developing a response to two theoretical approaches, the deductive method is necessary. This follows my personal interest, and the research process followed the deductive approach in which the models were selected prior to case study rather than vice-versa. Allison (1971) has provided an explanation for the use of models as the basis for deductive research:

*Conceptual models not only fix the mesh of the nets which the analyst drags the material in order to explain a political action; they also direct him to cast his nets in selected ponds, at certain depths, in order to catch the fish he is after.* (sic)
While this implies arbitrariness on my part, it is also useful in claiming that the theory was not selected as the best "fit" for the data, it must stand on its own (a criticism often applied to inductive research; Halfpenny, 1982:99). The choice of the models themselves was also easy, stemming from countries whose scholars have heavily influenced the work of Australian political scientists, the models had been presented by their authors for evaluation and use by others. Rhodes, for example, states (1990:312):

"it is important to ground any appraisal of network characteristics, disaggregation, sub-sectorial and cross-national variation, typologies of policy and macro-level theory in studies of networks 'in action'."

While Sabatier and Jenkins-Smith, in explaining their focus within the scientific paradigm of research, state (1993:xi):

"explicit lenses invite critical scrutiny of their key variables and causal relationships in terms of their logical properties—clarity, logical consistency, scope, fruitfulness—and in terms of the receptivity of their principle propositions to empirical verification ... Such scrutiny produces revision, retesting, and, at times, rejection."

Second, the deductive approach is well-suited to comparative work (either between cases or between theories). This point is supported by Grant Jordan (1990:337) who sees the wide variations of "network" approaches that can allow for development and refinement, rather than reinvention in this heavily contested field of research. Third, as alluded to by Sabatier and Jenkins-Smith, explicit comparison builds on the work of others, verifying and providing reliability to the claims of their authors, meeting problems, and proposing revisions. This practice can only be applied to theory where it provides a potential paradigm for understanding observed phenomena (Ryan, 1970:80). Finally, while noting the limitations of the advocacy of "value-free" research (i.e. the approach is anti-humanist, in a social world where no researcher can be "value free", the approach assumes the superiority of the researcher over those studied, etc.; Becker, 1967:15)\(^3\), use of the scientific approach is helpful in avoiding the appearance of a partisan connection, a taint that can limit access to political participants.

Thus, the approach of this thesis is to explore the value of the work of Sabatier and Rhodes in Australia by applying their theoretical lenses and methodology to the case study. In doing this, the models are applied in their unmodified form, without altering their content through a preliminary theoretical critique and revision. The reason for this approach is to evaluate the models themselves and base my critique of their value on the empirical research, rather than attempt to develop a wholly synthetic approach initially. This will allow a reasoned evaluation of the two approaches upon which criticism can be applied. Additionally, as the two models provide different approaches within the same overriding research paradigm (the so called "group theory" school) and methods for the study of groups in the Australian political environment, a fair amount of comparison, verification, and cross-pollination will result from the study of these two theories.

**Thesis Structure**

This thesis is divided into three distinct parts: Theory, Case, and Analysis.

Part I, Theory, details the analytical models used in the thesis. This Part is divided into three chapters. The next chapter, Chapter Two, introduces the intellectual traditions in which the approaches are situated. Overall, what we can see is that both Rhodes's and Sabatier's approaches belong in the overall rubric of "group theory" in political science. This approach developed from a critique of the state as wholly sovereign in the latter

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\(^3\)Which, from an Australian perspective, are neatly summarised by Staveley (1970:210) in that, through the expression of value-free research, the positivist approach (leading into the realist camp) is mainly concerned with a larger hypothetico thesis of the nature of power in society and falls into problems in scientifically proving the existence of concepts like power.
part of the nineteenth and early part of the twentieth centuries. From this foundation, the role of interest groups was emphasised, first as a part of the political process, then as a key ingredient in democratic polyarchy. As limitations in this approach emerged, the normative nature of this theory was modified, and analytical focus moved from the state- to the micro-level of analysis. Within this overall approach, therefore, the two models can be situated. Following this, Chapter Three introduces and explains the Advocacy Coalition Framework and Governance. The ACF is comprised of a number of elements: system-wide events and characteristics, the policy subsystem as the focus of analysis, specific groups of actors (advocacy coalitions) within the subsystem that are motivated by their value systems to press for specific policy outcomes, and who employ "guidance instruments" or strategies to influence each other and key decision makers (sovereigns). Governance can be seen to be a function of the modern British state as "hollow". What this means is that, with the development of policy making networks, the use of new public sector management techniques (contracting, new public management, market reforms) has reduced the capacity of the centre to effectively enforce policy decisions. In this "post parliamentary democracy" these networks are bound together by exchange processes that moderate and effect their freedom of action, but also create power and influence through their interaction. Policy, therefore, is the result of the activities of these insider groups. Finally, Chapter Four introduces the two methodologies advocated by Rhodes and Sabatier, introducing the advantages and limitations, and explaining how these will be applied to the case study.

Part II, Case, provides the basis for the comparative analysis. Thus, Chapter five outlines the history and backdrop of the political issue forming the source of analysis by the ACF and Governance: the regulation of the content of public computer networks in Australia between 1987 and 2000. This case study can be seen as situated within wider political debates in Australia about content regulation (censorship) that have been a feature of public debate since the introduction of theatre in the colony of New South Wales. This control of communicated content has extended over time to embrace almost all forms of communication in Australia, and has lead to the development, post-federation, of a complex intergovernmental system of censorship that persists to this day. Interest in the censorship of computer networks began with the increasing popularisation of computers and communications, with the control of violent and sexually explicit computer games spreading to interest in computer bulletin board systems in the early 1990s. With rapid changes in technology, this led to interest in the emergent Internet in the mid-1990s, a debate which produced periods of both intense conflict and compromise. In 1999 this debate was concluded with the passage of the Commonwealth Broadcasting Services Amendment Act 1999, bringing censorship to Australian Internet users in a co-regulatory model largely based on that used to control broadcasting content.

The Final Part, Analysis, is divided into three chapters. Chapter Six examines the case study from the analytical perspective provided by the ACF. From this analysis it is possible to identify the emergence of an active policy subsystem in the mid-1990s. Within this policy-making environment, a number of advocacy coalitions emerged to debate online censorship. These coalitions tend to be rather stable over time, but subject to changing membership by some public interest groups and government agencies. Overall, a number of interesting periods of time can be examined using this data: showing periods of conflict (1996, 1999) and compromise (1998). Overall, what Sabatier's analysis shows is how a compromise coalition tended to dominate the policy subsystem, largely comprised of industry members. While not controlling the process of policy development, this coalition tended to receive favourable or acceptable policy outcomes at the expense of those advocating greater government intervention, and those opposed to online censorship. Chapter Seven, uses Rhodes's approach to examine the case, focussing on the development of a tight policy network dominated by members of the Federal Attorney-General's Department (and associated agencies and organisational structures) and the Federal Communications Department (and similar
bodies). The exchange relationships of this network were largely a function of historical divisions of authority between the Federal government and the States, but did come to incorporate two non-government groups, most importantly among them the key industry association. Overall, what this analysis shows is that, tensions between the two Federal departments were apparent. This led to some level of conflict between elements of the communications portfolio and state governments, but was resolved by the dominance of the Minister for Communications over the issue confirmed by Cabinet in 1997. Given the relationship between the communications portfolio and industry, policy was directed towards a censorship regime that would be acceptable to industry involvement (essentially developing a greater level of autonomy of members of the policy subsystem post-2000).

In Chapter Eight, these two assessments of the case study are brought together and compared. What can be seen is that, while each approach tends to reinforce the view of the other and illuminate unexplained findings of each analysis, a range of limitations are presented from the empirical evaluation. These assessments focus on the lack of consideration by the models on key institutional players in the process of policy making, with this limitation reflected in their methodological approaches. Overall, in highlighting the underlying pluralism of the approaches, the role of the state is first re-emphasised and then constrained by a series of competing and overlapping network relationships. In evaluating the process of policy making, therefore, it is contended that where legislative power is important, sovereigns have a wider range of competing pressures than simply those of the policy subsystem. To assess these competing pressures, policy outputs can be divided into "real", "symbolic" and "quasi" elements, and measured to show the range of winners and losers in policy debates.
I

THEORY
Introduction

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Conclusion

This chapter introduces the theoretical and methodological discussion of Part I by examining the intellectual traditions in which the two analytical models used in this thesis are situated. As approaches concerned with the contest, development, and implementation of public policy between groups and individuals in society, the Advocacy Coalition Framework and Governance are positioned in the general strand of political science research focusing on group-theories to explain the political process. What this chapter shows is how, in attacking the concept of a single, sovereign, unified state as the origin of power in society, a range of authors have developed an emphasis on the role of organised groups in policy making process. Initially this approach served to reiterate the importance of "interests" or "faction" in political life and disaggregate the institutions of government into agencies or points of access. Taking these innovations, American authors developed the pluralist school of state theory, seeing the role of interest groups as essential to democratic life in a mass society and balanced by the forces of competition and mutual adjustment. Within this school the state became considered as a mediator, umpire, or agent of group preferences. While this approach became dominant in the United States during the 1950s and 1960s (and was exported to the United Kingdom), this model began to be attacked based on a range of inconstant findings from empirical research. While these critiques lead to reformulations of the approach, significant developments in the 1970s and 1980s in the United States and United Kingdom lead to a focus on "clusters" of policy makers at the sub-governmental level and were concerned with specific areas of policy making (policy networks). Overall, the two analytical models used in this thesis (and presented in Chapter Three) can be seen to be based in this "network" perspective, each drawn from its own unique background and intellectual tradition.

Group Theory, Pluralism, and Neo-plural Networks

The interest in groups, established in the early part of the twentieth century, served to focus political science onto politically-active organisations and associations that had emerged as a result of the development and democratic impacts of the modern society, and away from strict institutionalism (governed by elites). In doing this, the level of analysis has fluctuated between concerns to micro-level interpersonal politics to macro-level state theory to intermediary policy making structures. This analysis has been contained largely in two theoretical traditions: democratic pluralism and the concept of "polyarchy", and neo-pluralism and the "deformed polity" of governments dealing with the fiscal crisis of the state and "ungovernability". While this field of research has contained many discreet theoretical developments (such as a renewed interest in the structure of government, the nature of bureaucracy, and a focus on elite and
organisational psychology and studies of decision making), it has generally become concerned with the role of groups in the development and implementation of policy, their composition and motivation, and the relationship between the group and state organs. Overall, developments in the study of groups has led to an emphasis on the interrelationships between groups and government organisations within conceptual “domains” associated with relatively discreet policy issues and topics (Maass, 1951; Heclo and Wildavsky, 1974; Richardson and Jordan, 1979; Habermas, 1971). In conclusion, it is important to identify the impact of this work in Australia, before situating Sabatier’s and Rhodes’s models in their own specific intellectual backgrounds.

The Origins of Group Theory in Political Science Research

Group-based political research focuses attention on politically-active groups and organisations called “interest groups” or “pressure groups”. Taking a simple definition (Harman, 1980:186) we can define these organisations as groups "which endeavours to influence government policy or administration ... irrespective of its precise goals, or methods used to achieve them". The study of these formal or informal groups⁴, therefore, focuses on their role in the political process and their means of influencing the outcome of governmental decision making and the administration of the nation. While nineteenth century political philosophers maintained a concern with the impact of group and faction on the process of government, the interest in pressure-group analysis in the modern context developed during the period between the end of the nineteenth century and the start of the First World War. This coincided with the emergence of political inquiry as distinct discipline. At this time political scientists began to question the traditional focus of the investigation of government on jurisprudence and institutions, themselves based on an underlying assumption of the state as an entity of absolute sovereignty. The focus on interest groups, therefore, is a step beyond the traditional emphasis on formal institutions of power (parliament, the executive, parties), bringing elements of the wider community into the process of government and showing how political decision making operates outside of the “formal” processes of elections and legislative debate.

In focusing the discipline away from the monolithic state writers like Laski (1917) explored the concept in detail. He criticised the absolutist view of the state as portrayed by earlier authors who had focused on government rule-making and arbitration in vacuo—splitting sovereignty into a property shared between the realms of public (government) and private (“collective associations”). This reconception of social status of government and the role of sub-groups within society, while attacking traditional views of the state in somewhat simplified terms, did give rise to the classical plural view of government: that groups representing specific interests were important in advancing individual political desires to the government, for some form of resolution or mediation. Indeed, as state and society became more complex with the expansion in the franchise, geography (regionalisation, globalisation), technology, and the welfare state, the more likely these forms of democratic group processes were necessary. It was during this period that Arthur Bentley wrote his highly influential work The Process of Government, which he claimed as an attempt to "fashion a tool" for political analysis based on the acceptance of the state as not wholly sovereign and, therefore, "social" groups had a legitimate role interacting with government to realise their interests⁵ (1908:214).

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⁴Borrowing from Schlozman and Tierney (1986) where they identify an "organised interest" as not only formal groups (professional organisations with internal structures) but also groups with no "members".

⁵While Bentley's insights were rich and expressed many details that were to form the basis of "group theory" (the importance of interest groups, multiple point of access to the political process, a decoupled and fragmented view of the state) Garson observed that the insight of this work went largely unnoticed until its republication after the Second World War (1978:77). This was, to some extent, due to the radical nature of the text when first released in 1908 and also
Under this view, Bentley's interest groups were self-defining actors in the political arena. Their particular interests were not presented for interpretation by a government attempting to mediate some vague general will in the way that the monist saw the interplay of democratic forces on government, instead they were active in competition for outcomes they wished to receive from governmental action on specific points of policy and over particular decisions. Thus, Bentley's system of government was conceptually complex. He identified governmental units as decoupled from each other and, capable of acting independently. He stated that:

\textit{government is a differentiated, representative group, or set of groups (organ, or sets of organs), performing specified governing functions for the underlying groups of the population ... Government in this sense is not a certain number of people, but a certain network of activities.}

Bentley identified the role of interests in the political system as inherent and unavoidable, be it in terms of the industrialist or corporation funding political activities, or via the pressure politics of lobbying and trading influence. Indeed, government for Bentley is difficult to define, as the distinction between the private and the public spheres blur where groups act politically. This is partially the result of the expanded role for interest groups in the public life of a fragmented polity, where multiple points of access allowed groups to act as spokespersons on key issues in both the cloistered world of back-room politics and as public advocates, selling their various messages to the public through a vast array of media and marketing strategies. This approach was in line with the developing work of pluralist thinkers, who were to advance the concept of interest group membership and activism as demonstrating grass-roots participative democracy in action (Berry, 1980:43), a concept well ingrained in the political discourse of the United States from where this "state theory" was to emerge.

because of a change in the academic climate that occurred with the rise of Fascism in the interwar period. As democratic pluralism debated the corporatist framework advocated by pro-Nazi academics and as wider tensions moved towards war, a defence of American or British "Democracy" vis-à-vis their pluralistic political environments couched much of the debate during this period of time.

Thus, the concept of government was moved beyond the conception of the state as a conduit for the general "good", but subject to the self-interested political activities of groups concerned with immediate preoccupations. The importance of Bentley's view of group activity within the political arena was the manifold number of the debates, arenas, and levels of group interaction with government. Groups did not simply place pressure at the top or bottom, rather their: activities are all knit together in a system, and indeed only get their appearance of individuality by being abstracted from the system; they brace each other up, hold each other together, more forward by their interactions, and in general are in a state of continuous pressure upon one another.

Thus, Bentley's view of the interaction between groups (social, economic or political) and government were sophisticated for his time. He recognised the interconnections between groups and the dependencies that formed within the "system" of government.

Although the institutionalist focus of previous work is also evident in Bentley's work where he identifies government organs as "performing specified governing functions" this view still sees some grand design in the assignment of functions to government units by some higher force, in this case for, not by society's myriad groups.

Bentley (262) gives the example of members of a corporation or church, who, on completion of their "business" activities, discuss their plan for an upcoming election campaign.

For Bentley (1908:258–71) the "pressure" released by interest groups is the result of their interaction, the "push and resistance between groups". Government is therefore a system for the adjustment of group interests through its various organs in which outcomes are the result of the friction between groups, rather than the adjudication of some higher authority. That government has a role implies some inherent power, or right, held by it to adjudicate.
Australia's Online Censorship Regime

A critical examination of Bentley's approach did not emerge until Truman's *The Governmental Process* (1951) sparked renewed interest in the work and this "new" group interpretation of politics. Where Bentley had proposed a rather mechanistic (an action / reaction model) view of group-based politics, and had crystallised the concept of "pressure politics", Truman's book popularised this view as a value-free method of interpreting power relations and the outcome of political disputation. This view was in stark contrast to the muckraking accounts of "special interest" activity in the political process of the United States^10^, which tended to focus on the "Madsonian" problem of faction and self-interest in democratic life (10–3). Truman makes a number of salient points when discussing the development of a group-based approach to political analysis. First, recognition that the value of aggregate analysis (i.e. groups) was retarded by the fundamental focus of his predecessors on the defence of "militant doctrines of individualism"^11^ (47). Second, Truman warned against the excesses of this method of political study: the excessive reduction^12^ and classification of interest groups into archetypal categories or stereotyped headings^13^. His approach was certainly more direct than Bentley and did not have to rely on the interplay of pressures approach to explain group-based political outcomes. The core element of Truman's account fixed theoretical attention on government, not as "organs", but centred around *points of access that had independence in their own right* (507). Group analysis, therefore, required an assessment of the interest groups^14^ clustered around these points of access^15^ where political dispute occurs.

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^10^ Of which Lincon Steffen's *The Shame of the Cities* captures the essence of the "special interests" as inherently associated with corruption. Steffen's account (1904), originally a series of long journalistic articles, rather than a scholarly study, does not approach the subject from a group perspective *per se*, but instead its brevity forced aggregation into groups of business interests, politicians, police, etc.

^11^ As encapsulated in the writings of authors such as John Stewart Mill. However it must be noted that Mill's classic *On Liberty* (1859) certainly cannot be seen as dictatorial in its defence on the individual as a reality, but more as an ideal that may be achieved by enlightened and educated men (this term used advisedly). Mill asserts (105–6) that "He who lets the world, or his own portion of it, choose his plan of life for him, has no need of any other faculty than the ape-like one of imitation.", a warning against subservience to the greater part of society that the individual dwells within. Mill's discussion on custom denies the value blind adherence to the customs of those around them, but in the same breath admits the value of accepting lessons of the past (custom, or in this context, some group identity). While this is no betrayal of the individualist nature of Mill's approach, it is certainly less an iron-clad ideology than its critics present it as.

^12^ By nature analysis at the level of groups does need to "give something away" as Truman states, but in this process he sees the fulfilment of the scientific paradigm: the reduction of a field of study into a model, paradigm, tool, or axiom. Where other political scientists reduced through exclusion (the limits of description, the omission of particular individuals or groups) the group interpretation allowed for the deliberate, premeditated reductionist approach to be applied to what ever was under examination.

^13^ Astutely, Truman notes that interest group politics is essentially dynamic and subject to rapid change (65) and in such an environment these classifications may obscure and mislead over time. A very poignant example that Truman makes is that of "Women's Groups", of which Truman sees oft classified under the heading of "miscellaneous", a thoroughly unsatisfactory "analysis".

^14^ This analysis was based on a study of the group's standing and power in society (status and prestige, political legitimacy) and its internal nature (cohesiveness, resources, leadership).

^15^ The access point is the institution or governmental organ with whom competing groups would have to deal. As with any conflict, the ability of one group or another to pick the terrain of their conflict is seen as highly relevant to the process of inter-group disputation. A group attempting to introduce an issue is best favoured should they pick a political access point where they can best use their social and internal strengths, and where their opponents' strengths are of little value.
Dispute is the operative term used under this conception of political decision making. Truman saw distinct and identifiable winners and losers emanating from group-based politics. In political contests, government was entirely responsive to the outcome of interest group conflict, except where this conflict featured overlapping group membership and the possibility of potential interest groups (511): a theoretical appendix that allowed the explanation of events that did not match a causal model of pressure politics (based on observable chains of causality). The concept of latent political interests, therefore, was an interesting attempt to reconcile the distinction between "interests" and "opinions" in the same way that Benson proposed groups as a substitute for monism. The difficulty that Truman's potential pressure groups attempted to overcome was the problem created by denying the "public" a "will" under the group model—how is it that governments continue to act against the express wishes of powerful groups? While the conception of potential interests allowed Truman to neatly side-step the problem of public will, the approach created a vast loophole for dismissing unexplainable phenomena, an anathema to the scientific philosophy in which it was based. What this work did, however, was to open the door to the popularisation of a group-based interpretation of the political process.

This popularisation was neatly proclaimed by Earl Latham's 1952 article The Group Basis of Politics: Notes for a Theory. Latham enunciates clearly the group-approach as a crucial development of post-war pluralist thinking, one that reformed the conception of the state but also presented the group as the "basic political form" (381). This focus on groups as political actors is in stark contrast to Truman's advocacy of the reductionist approach to group-based political analysis, as Latham saw groups as the focus of political activity rather than as suitable abstraction for the study of political decision making. Truman made no such sweeping claims, rather seeing the assessment and comparison of aggregates as scientifically valid methods of "concurring chaos", as Bentley had exclaimed.

Two reasons can be attributed to this shift from abstraction to reification under Latham. First, the influence of the sociological approach of the late 1940s focused on the relationship between the individual and the group. Where the sociological approach had introduced the notion that the individual could be defined in relation to those around them, with the rejection of strict obedience to individualism within political science the group became the only relevant actor. The second motivation was the perceived dichotomy that had developed between the "old school" of strict legalism and the study of institutions, and the new pluralist approach. However, Latham's definition of government organs or "officiality" (389) shows that the distinction between the old

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16 This limits the absolutist view of group self-interest: the ability to identify some political outcome that will benefit all members of the group, and the willingness to pursue a proposed strategy or policy to the exclusion of all other interests.

17 Garrison (1978:28) notes that the term "interest" was historically applied to sub-groups within society and denotes a common binding motivation or set of values defining the group and stimulating their political activity, whereas "opinion" was used to denote the concept of the general will (the public will, or public opinion), a far more illusive concept for political scientists to define accurately or measure empirically.

18 This approach had a commonality with Marxist literature of the time, which had earned academic respectability, even if the notion of the class struggle itself was rejected as the ultimate expression of group politics. For example, Bentley (465) sees Marx's work as essentially a misinterpretation of group-based politics, where the struggle between capital and labour was over-generalised as the fundamental nature of political dispute, rather than illustrative of particular types of policy making. Needless to say Bentley would (if he had explored further) have taken exception to the notion of the state as inherently biased. However his dismissal of the Marxist approach is quite cursory.
approach and the new was to some extent artificial. His recognition of the institutions of governments as groups with their own group interests and role in adjustment of competing demands accepts the value of constitutional and structural studies of government organisation. Certainly Latham did not fall into the caricatured "pluralism" presented by MacPherson (1973) that the state is simply "inert" subject to direction and control by dominant pressure groups. Nevertheless he does see the role of arbitrator as only mildly shaped by inter-institutional rivalry and self-interest. This in itself is not seen as problematic—rather it raises the question of whether the division of powers forms part of the grand strategic vision of the constitutional founders to balance against the temptation of arbitrary power (392). 

**Group Theory and Pluralism**

Regardless of the unresolved theoretical differences between Bentley, Truman, and Latham, during the 1950s we see the formalisation of what Zeigler (1980:1) would later call the "cult" of group-theories of politics. Ironically, this claim reduces the work of the group-theorists to a simplistic approach and produces the kinds of anti-reductionist arguments that the group-theorists attempted to overcome in their search for a "scientific" approach to political analysis. It can also be argued that in this way, this form of, now common, criticism is no different in its simplicity from those arguments proposed by group theorists to overcome their predecessors: the institutionalists. As Garson argues, theoretical approaches in political science are not so much overcome with logic as superseded with newness. Still Zeigler's rejection of the approach was centred around two specific claims: that groups were really the only truly useful unit of political activity and, as Hagan (1958:40) desired, the unifying role of group-based analysis was becoming an underlying "language" of political science (a method of unifying the discipline in the same manner in which mathematics unified physics, or the concept of supply and demand unified economic debate). These two criticisms can be seen as an essential element of the "scientific" focus of the period. Thus, while this assessment of the sub-discipline of the group-theorists can be seen as somewhat captious, by accepting Zeigler's view that the debate gave rise semantic argument within the discipline allows us to focus on the development of post-war pluralism within the structures laid down by these thinkers: the scientific approach to policy analysis; the explicit focus on groups as the central element of politics; and questions regarding the role of the state.

Perhaps one of the best illustrations of the post-war pluralist studies is Dahl's 1961 community power research of the government of New Haven, which he published as *Who Governs?* In this book Dahl accepts the approach advocated by the new school of group theorists: his work is pluralistic, focusing on groups (segments of the community), involving multiple methods in a scientific approach to the question of who controlled and shaped policy making within a number of policy areas in the city. Dahl's approach to the question of identifying centres of power within his chosen city smacks of the kind of explicitly reductionist study advocated by Bentley and Truman: using one "generic" 

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19 Latham does not depend on the tools of multiple membership and potential pressure groups to explain the semi-autonomous role of institutions, rather seeing them as (a) given a certain status above non-governmental groups—authority, and (b) prone to inter-group rivalry and machination (where the legislature may vie against the political manoeuvring of the executive).

20 Another example being Dahl's latter view of the state, presented in his pluralistic phase that the state was the source of coercive power and for the individual to "control the state" they could use this power to their own ends. This, according to Dahl in the mid-1960s placed the state as the "pawn of key importance" (1963:50–1). This however, had disappeared in the second edition published seven years latter (see Dahl, 1970:28–30) and replaced with a more subtle discussion of potential and manifest influence (power).

21 If not, then who controls or coordinates this structural power, and to what effect?
American city as an exemplar for the whole of the United States; locating case study examples (education, urban redevelopment); and sub-dividing the community into a number of groups and subgroups. Dahl's work in these areas is detailed and expansive, and its outcomes, while later characterised as quintessentially pluralist in later years, were rich and drawn from a diverse base of field research using multiple methods. The key contributions of this book are the identification of a process of democratic expansion that had altered the nature of New Haven's governmental processes, creating a sub-culture of political activism (the "political strata") that was "independent, penetrable, and heterogeneous". For Dahl government was not tied up in institutions (but could be found through the identification of formal structures, such as the office of the Mayor) but an assembly of the politically motivated, producing outcomes (policies) that reflected the consensus of political participants or the will of political coalitions. Whereas the "apolitical strata" was larger in number, but of less direct political influence in the process of policy making, they were free to become politically active at any time and their views were actively considered during the periodical election process (attempting to reconcile the difference between interest and opinion once again). Thus, for Dahl, power is direct and indirect, a subtlety that Dahl recognises, even though he had difficulty studying it within his positivistic framework.

What emerged from this view was the concept of polyarchy which Dahl (1970) sees as organisational structures and institutions developed to provide mechanisms for peaceful adjustment of competing interests in a mass Democratic society. In a polyarchy, parties, interest groups, and state institutions form part of the process of democratic adjustment and therefore must have independence and autonomy of action to preserve the functioning of the democratic system (Russell, 1987:170). This "democracy of interest adjustment" owes much to Galbraith's 1953 work on "countervailing power", which saw the rise of particular interests that might threaten democratic equilibrium as counted by responding counter-mobilisations (business interests, traditionally feared...
because of their economic resources and influence on government can be seen as countered by the emergent power of unions under this approach)\textsuperscript{25}. Thus, where faction and personal interest were seen as problematic under the Madasonian interpretation of groups and government, for Dahl these interests served to bolster the inherent democracy within the political system. Groups were not countered by good government, they created the conditions for good government. However, in placing the role of interest groups into the centre of the political process and the polyarchical system, the role of the state under pluralist theory of the 1950s and 1960s tended to be understated. Dunleavy and O'Leary (1987) see the range of pluralist writers following Truman and Dahl as taking three broad perspectives to what the state was: First, the earliest approach saw the state as a "weathervane" or "cipher", and subject to whatever interests are organised or large enough to capture the power of the state and use it to their ends (circa 1950s and 1960s); Second, the state is a "neutral" arbitrator that accepted pressure from organised interests, monitored the "fairness" of disputation, and intervened based on a wider assessment of the public interest; and, Third, the broker state model, that saw state agencies as having interests of their own, and a willingness to bargain and broker for advantage with interests.

It is interesting to note how the concept of pluralism was introduced into the United Kingdom. As Parkin observes (1980:51), the role of interest groups in Britain was "discovered" by American pluralists such as Beer in his 1956 article \textit{Pressure groups and Parties in Britain} (also see Beer, 1958; Eckertein, 1960). However, in doing so the unitary nature of the political system and the effect of tight party discipline on the institutions of government served to force concessions on the "pure" American version. Thus, Beer critiqued the group theory model on the very principle that writers like Bentley attempted to establish: the lack of an underlying general interest in political life. Beer's argument is not that a "national interest" exists \textit{per se}, but the group theorists' view that political conflict was constrained by the "rules of the game"\textsuperscript{26} failed to incorporate the influence of a national political culture that involved "not only the 'rules of the game', but also positive social and political values" (2). Norms of behaviour were of importance, according to Beer, however it was the political culture that prevented the system breaking down and shaped the overall direction and composition of policy making. For Beer this could be seen in the shift from "private politicians" (which conformed with Dahl's notion of the heterogeneous legislature) towards "private bureaucrats", a view more closely associated with the work of Maass in its quasi-corporatist nature\textsuperscript{27}.

Thus, in reality, the differences between the degree of incorporation and access by interests in the United Kingdom\textsuperscript{28} and the United States to the state did not allow for a simple fusion between the two approaches. However, Beer proposed that the limitations of the group approach are not only due to structural / constitutional differences between the United States and the United Kingdom (such as the federal system that increased the number of access points to the political system and necessitates intergovernmental policy implementation), but that the extent of interest groups' activity in the United Kingdom was reduced by the number of available points of access into the political arena (Beer focused on the Parliament and Cabinet, the bureaucracy and political

\textsuperscript{25}This can be seen as a modified version of Truman's potential pressure groups.

\textsuperscript{26}The rules of the game are a set of conventions and norms that limited the level of dispute within the political arena.

\textsuperscript{27}Maass's view of the relationship between interests and bureaucrats (1950, 1951) had been shaped by his empirical studies of decision making by congress and had predicted the emergence of the "iron triangle" relationship—linking congressional committees, bureaucrats and key interest groups into an exclusive policy making club.

\textsuperscript{28}The United Kingdom had seen extensive central direction during the war-time years that had led to the development of close personal links between private interests and senior bureaucrats.
parties). This view of pluralist theory in the United Kingdom is reiterated by Rose who argues that, while British pressure groups looked like their American cousins, the nature of the interest group - government power relationship lead to tripartism and corporate-styled intermediation structures, rather than to a "British polyarchy".29 Thus, for Rose (as for Beer), having a strong sense of the "government's right to govern" (a cultural, rather than legal norm) limited the development of pure pluralism in the United Kingdom and encouraged corporatist-styles of intermediation, with the state firmly placed at the helm.30 That the state has an important role as a central agency for the dispersal of power in the United Kingdom is highlighted by Kavanagh (1990:163–4) who shows that tripartism was not simply a polyarchical mechanism, but a top-down approach aimed at controlling debate. Where this failed, successive governments (his example being the Thatcher Government) changed the basis upon which it interacted with groups, stressing it's political legitimacy to act free of interest group demands (162).

The Limits of Pluralism: the Neo-pluralist Critique

This debate about the nature of the state would come to dominate arguments surrounding pluralism, and finally express itself as a dispute over where government positioned itself on a sliding scale between strict monism (where government along makes, or "takes", decisions based on its own internal processes31) and pure pluralism (where government has no role but observes and implements the demands of the most capable or equipped interest32). According to Smith (1990:302), criticisms of the pluralists of this period would focus on the latter interpretation, that would paint pluralists as either ridiculously naive, or simplistic in their view that countervailing interests comprised the essential basis of democratic competition. Smith argues that developments within the field of the 1960's and 1970's would add richness to the basic landscape painted by Bentley, Truman, and Dahl, through exploration of some of the more minor details and caveats that Zeigler would later term "semantics". These developments focused on the relative power of some interests (especially economic interests) over the decision-making process, an inescapable observation made through empirical investigation of real policy making cases (and therefore a result of the

29 For Dahl, the U.S. and U.K. were both "sable polyarchies" (1970:71).
30 This spectre of corporatism, so soon after the defeat of European fascism was a bold step by Beer, and would not be truly embraced by academics until the mid 1970s when Schmitter and Lehmburuch would once again explore the state as an instigator of a compulsory, ordered system of interest representation. The suggestion of such an omnipotent state would, at the time of Beer's essay, have met with derision, yet in retrospect the potential was there for the claim that Britain had made the step during the Second World War from the free market to a form of state-directed capitalism. Nevertheless, Beer's approach, while not rebuked by the work of writers like Dahl, was disarmed by problematic timing and the projection of democratic pluralism as the underlying political value of the time. Indeed, stemming back to the work of writers like Herring (1940) in The Politics of Democracy, we see group politics as becoming linked with the democratic ideal. Where groups compete, for which herring draws together not just political parties but includes interest groups as well (55), then the democratic tradition being defended. Herring's view of group competition was also an improvement upon the work of Truman, incorporating the role of the bureaucracy as a less mechanistic and more indeterminate beast. While the concept of the state as pluralist or corporatist would become an area for debate in another two decades, the effect of these arguments was to reduce group theory to an argument about the essential nature of "the state".

31 A concept which Winkler (1976:105) termed "directive corporatism", as opposed to the more mild form of the corporate state, supportive corporatism.
32 We may see this form of government in terms of Bentley's much quoted line "When groups are stated everything is stated" and the view of Lindblom in his 1965 work The Intelligence of Democracy in which he sees the possibility of rational decision making through the "invisible hand" of mutual adjustment that not only produces acceptable political outcomes, but allows for co-ordination among interest groups and across government.
scientific method underlying pluralism itself). Lindblom’s *Politics and Markets*, is an excellent example of this "lopsided" pluralism, explicitly recognising the privileged position of business interests across a number of areas of policy in the United States. This privilege could not simply be explained through an assessment of the resources (especially money) that business groups were able to invest in securing favourable outcomes (1977:175–6)\(^{33}\). Additionally, in the 1980s, Dahl, the leading proponent of pluralism, moved into this "reformed" (or neo-) pluralist school when considering some of the "problems" of democracy (*i.e.* polyarchy), where commercial interests and the underlying economic character of the American political system masked the political influence of economic groups, shielding these interests from counter-mobilisation (1982).

For Almond (1990) this "self-critique" by the 1950s-era pluralists marked the third wave of group theories and resulted in political problems emerging on the public agenda, that could not be successfully explained under the more optimistic model of government as democratic polyarchy. Race riots, Watergate, the rise of new social movements, stagflation, and money politics in the United States served not simply to show how compromise was predominant feature of government, but also how underlying social problems were not being solved by inclusive programs aimed at social welfare and justice which owed their heritage to the New Deal programs of the post-depression era.

The focus on cases and particular policy areas that led to neo-pluralist critiques in the United States were also transported into Britain, eager to apply American insights ("scientific management") to the British model of public administration (Rhodes, 1979:71–4)\(^ {34}\). "Policy analysis", was also to highlight the limits of American pluralism, not just in the face of changing economic and social characteristics in the U.K., but also in the face of Britain's distinctive political and institutional systems (Barker, 1972:186). During this time, Wilson proposed the concept of "Whitehall Pluralism" in his work *Special Interests and Policy making* (1977:45–6). This view argued that while close, closed relations between a powerful interest and department may lead to "a community of shared beliefs"\(^ {35}\), the role of other institutions (in this case Cabinet and other departments) would introduce some checks and balances to decision making that was nominally strictly within the domain of a single department or agency\(^ {36}\). This British form of pluralism incorporated, and overcame, a major hurdle within the American literature, how to explain a dominant interest not being able to get its way, especially when it monopolised the relevant government decision-making unit. In both the U.S. and Britain, however, theoretical developments like this were becoming more and more necessary to explain empirical data from case (policy) analysis / public administration research. This shows a move to exceptionism ("pluralism", "lopsided pluralism", "corporate pluralism", *etc.*), as pluralists attempted to stretch a monolithic pluralist "state theory" that fit empirical studies, where pure pluralism had failed to reach. By the time

\(^{33}\)Additionally, Lindblom identified the capacity for business to withdraw capital combined with government's increasing sensitivity to questions of economic management as another factor increasing the ability of business interests to secure a better grip over policy making.

\(^{34}\)Although Rhodes notes that there was, in fact, an indigenous model of public administration research in the United Kingdom, the emphasis on "policy analysis" tended to over shadow this literature.

\(^{35}\)Wilson's example in this case was the classic close relationship between the British Ministry of Agriculture, Fisheries and Food and the National Farmers Union. A relationship that had been characterised by close ties, information exchange, and continuous formal and informal consultation.

\(^{36}\)Where the American system highlighted a range of access points, this saw close "captured" relations between key interests and bureaucrats moderated by British democratic structures as a point of access for other views. Thus, in the United Kingdom, pressure tends to be aimed at parties (Punnett, 1968:140, as opposed to individual candidates (through such mechanisms as PACs).
Kelso published his view of “three types of pluralism” in 1978, the concept of an absolute pluralist state had passed for ever.

Groups and Networks
At the same time that Kelso published American Democratic Theory, a number of other works would emerge to shape the direction of group theory development: Heclo's Issue Networks and the Executive Establishment (1978); Lowi's The End of Liberalism (1979); and Richardson and Jordans' Governing Under Pressure (1979). In essence Heclo's vision of the "18 lane spaghetti highway" of competing interest groups that he observed rise to dominance during the 1970s could be dismissed as far too pluralistic a view of politics for its time, especially given the renewed emphasis on corporate and state-constrained pluralistic forms. However, while the applicability of this cacophony of competing groups may only be limited to certain political issues, Heclo's contribution was to focus attention away from debates over the broad nature of the pluralistic state, to specific political domains that had developed to accommodate and constrain such a wide variety of activity, as a result of the increasing number of politically-active groups in American society. Heclo phrased his "webs of influence" as a counterpoint to the closed nature of policy making professed by Maass (1950) and Cater (1964). However, in doing so he failed to overcome their arguments, instead legitimising the level at which the analysis was undertaken. Thus, rather than focusing at the state as an explanation for policy making, the outcomes of policy debate was within the network: an artificial analytical unit within which political conflict occurred at the meso-level of analysis.

In focusing analytical attention back to the level of policy-making "issue networks", Heclo reconstructed the work of earlier writers such as Griffith (1939), who identified decisions emerging from "whirlpools of special social interest" which engaged in informal "conferences" to determine policy in an on-going manner. Indeed, Griffith's active...
metaphor fits well with Heclo's frantic issue networks, where groups entered and left at will, and debate and conflict was tentatively constrained by interdependency and a loose form of group consensus regarding the nature of the policy under debate. This concept is essentially pluralist, and emphasises a degree of freedom of access within policy making domains that had formally been ridiculed out of existence (as the caricature of "pure pluralism"), or amended so many times that the "new" pluralist thinkers were able to talk past each other continuously (the revised pluralist school).

Thus, when Lowi's The End of Liberalism emerged in 1979, his critique of the pluralist tradition and the "philosophy" of interest group liberalism signalled not a death blow to the respectability of the pluralist tradition, but the establishment of a new mainstream critique of the pluralist approach. Hence, while pluralists had been developing a variety of exceptions to the ideal type, Lowi serves simply to discredit the notion of an American public philosophy based on pluralism, leaving group theorists to search for another banner under which to flock. This shift away from concern with establishing a national political culture leads to the distinction between the concepts of "issue networks", or "webs", and the macro-level pluralist tradition. Thus, Jordan's 1981 review of the "metaphors of policy making" focuses on the notions of iron triangles and private governments as the direct forefathers of Heclo's approach (95), rather than the more recent pluralist tradition from writers such as Dahl. Here the distinction between the pluralist camp and that of a more wider school of group theorists should be recognised. Whereas Bentley started the fascination with the notion of pluralism as a wide-ranging theory of the state (according to Truman's popularisation), this underplays the micro level of analysis that their theories and empirical methodologies implied. Pluralists have not been loath to operationalise their studies at the micro level (Dahl's work being the classic example), but the relationship between their empirical work and their views on group-based democracy was always strong, with case studies proclaimed as proving the irrefutability of democratic pluralism. When the limitations of this approach became irrefutable (through numerous counter examples of constrained or elitist policy domains), the work of writers like Griffith ("Whirlpools"), Lowi ("Private Governments"), Freeman ("Subgovernments"), and others became an attractive way to continue the exploration of group-based political analysis without having to proclaim this work as a universal truth (a macro-level theory). Thus the debate caught up to what Laksi had clearly enunciated sixty years previously, that the concept of the monolithic state (especially based on a singular causal theory) was essentially meaningless (1917:1,3).

Atkinson and Coleman have observed (1992:155) that the:

pluralist imagery [of the monist state] has given way to a variety of alternative methods that stress the difficulties of organising and maintaining interests, the uneven character of organisation, the privileged status of business, and variation in state capacity.

Therefore, what was needed was a unit of political analysis for study, recognisable issues, outcomes, and an analytical level at which to proceed. Thus, the concept of interconnected networks of policy makers became the inheritor of the pluralist legacy, even if its essential connection with the past was simply the focus on interest groups and a recognition of the failure of macro-level theories to provide true insight into the nature to exploit this inclusion, but it is unclear how, or if they are able to enter and leave the process at will.

One of the more interesting aspects of Lowi's critique of the pluralist "ideology" is its dependence on countervailing interest to act in a self-correcting manner (58). Lowi sees the extension of Adam Smith's "invisible hand" into the politic as an entirely unacceptable adaptation of classical economic theory, as pluralism failed to accept the notion of imperfect competition. Classical economic theory had been used by Macur Olson (1965) in his condemnation of interest group politics to explore the concept of interest groups as economic utility-maximises, a view that to this day remains entrenched in the mind of many casual observers of interest group politics.
of the policy-making process. This renewed interest in state autonomy could be incorporated easily into micro levels of analysis\(^{41}\), especially if the concepts of structural power\(^{42}\) and the state as an disaggregated set of organisations with interests in the political process is recognised and accommodated theoretically. The network approach moves beyond the definition of macro-pluralist notions of a group-based political system, allowing for and incorporating the concepts of structural power, governmental activism (Smith, 1990:320), and unequal access to the political arena.

Taking this into consideration Richardson and Jordan (1979) sought in *Governing Under Pressure* to accommodate the autonomy of the state and differential power relations in different policy areas. Their discussion of policy making focused around the concept of policy communities, that were a practical way to analyse the policy-making process. Atkinson and Coleman argue that the limitations of previous approaches lay in their desire to find a theoretical "magic bullet" that would carry across policy domains (1992:156)\(^{43}\). Developing the concept of policy communities, therefore, Richardson and Jordan overcame the limitations of pluralist literature that led to its discrediting during the previous decade: the tendency for empirical investigation to disprove or question the overall pluralist thesis that groups had access to the process of policy making. Importantly, their approach also distinguishes them from Heclo's initial work on issue networks, by accepting a multiplicity of policy-making forms that may exist within the nation (open and closed, democratic versus state-centric, etc.). With the publication of *Governing Under Pressure*, Richardson and Jordan had established a new strand within the group theory lineage, a development that began a new interest in the activities of interest groups within the process of policy development. This approach had the capacity to be operationalised at the micro-level as advocated by writers like Bentley, while accepting developments made by the post-war pluralists and structuralists. Their emphasis allowed for practical empirical studies that are whole of themselves, as well as the possibility for the development of a meso-level approach incorporating Beer's desire to see some form of overarching political culture included in the political analysis (see Richardson, *et al.*, 1981). This approach renewed interest in the field of interest group analysis of the political sphere, albeit on a smaller scale.

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\(^{41}\)At the micro-level structural issues could be incorporated as shaping the degree of autonomy a government agency or policy community has in developing policy away from the mainstream level of public debate and scrutiny. Campbell et. al (1989:92) note that the degree of autonomy a network will have also depends on the degree to which it is able to insulate itself from other networks, and to what extent "interjurisdictional" activity or accommodation occurs. Thus the structuralists need to incorporate not only consideration for the formal environment in which policy making is relegated, but the relationship between policy making domains that may be entirely ethereal in nature.

\(^{42}\)Structural power can be seen as having an important impact on the policy making process and the differential access or influence of some interests over others in the process (Hall, 1986). This accommodates Skocpol's desire to "bring the state back in", that is, to explain the observed autonomy of some governmental units in introducing or driving policy developments (1985:9–14). Thus, the network concept allows for a broader view of potential policy-making domains, albeit at the expense of a grand vision for entire political environment. Knoke (1990:126–8) sees the community power studies of the post war pluralists as skirting the borders of structural power. Where state actors were "heterogeneous, differentiated, and decentralised" then the pluralist's perspective was essentially correct (an open system where interest could enter the political arena and be represented by one of the diverse individuals that comprised the political strata). New Haven may have been a classic example of this, however in reaching the conclusions about the city as a polyarchial society, the pluralists failed significantly to recognise the effect the political and social structure lent to facilitating access within the body politic.

\(^{43}\)By policy domains I refer to policy arenas, or subsystems.
An underlying theme of the study of politics in Australia has been the contest between universalism and localism. That is to say, the difference between the study of politics as it obeys an international set of causal theories versus the reconception of theory to deal with specific local events and peculiarities. This contest lead to divergent paths of research endeavour in Australia—international versus local study of politics—and, therefore, the perception that Australia, as a small, stable parliamentary democracy, lacks any strong ideological or theoretical tradition of political science. However, in discussing this perception, Stokes (1994:244–5) identifies a middle ground: that, in considering theory developed internationally, we can be concerned specifically with the problems and particularities we face as a nation. As a fledgling country without the institutional history of Europe, or the revolutionary juncture of the United States, Stokes argues that we may have neglected to develop an "epic" theory of politics of our own, instead settling down to the pragmatic process of developing the Australian application of international theory and ideology, (very much in the same way that the Australian "Washminster" model used older states as the catalyst for our own political institutions). This point is also made by Colebatch (1992:11) who argued that the development of theoretical explanations of the indigenous political tradition needed to stem from an identification of divergence between "pure" models adopted from the United Kingdom and northern American, and the way these have developed and changed in response to local culture, circumstance, and to meet indigenous conditions.

While the argument over the level of theoretical development of the Australian discipline of political science continues, it should be recognised that wider debates occurring in the United States and Great Britain have influenced the work of Australian commentators on Australian interest group politics. This implicit use of theory coloured what was studied, as well as the method of study, and the value statements added to whatever observations were made. Early work examining the actions and impact of group activity in the political process were couched in the familiar terms of "special interest" monopoly of government access and resources. Work by authors like Arndt (1957) drew attention to the actions of business interests and their interactions with politicians and senior bureaucrats. Arndt focused on the nature of business interaction with government (especially at the level of Chief Executives), where business and government "managers" were like-minded enough to represent a powerful bloc within the nation.

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44 A similar point is made by Hume (1994) who, in reviewing colonial literature on the problems of government, identified attempts made before 1860 to bring international understanding of the questions of government and democracy to illuminate the Australian condition.

45 This shows the underlying concern at this time with the details of the structure of Australian governments—unsurprising perhaps because of the recent formation of the federal system and its institutions (a still very rapidly evolving field of endeavour at this time). This form of structuralism is seen in the writing of Hancock (1930) whose small entry on parties included references to the formation of parties from "divergent interests" (199) which choose party unity over factions which "fight for its own particular spoil over quicksands of disorderly combinations amidst ever-changed pacts of covetousness". Twenty-Eight years later Davies was to have a similar structuralist approach to Australian government stating (132) that we "lack data—and even concepts?—to analyse systematically the many categories of support [for parties]" and that (132) "vague talk of 'pressure groups' behind the parties" is not particularly useful because this political activity, too, aimed largely at the administration.

46 Arndt draws upon the work of Miller (1954, 1959, 1964) who discussed the nature of Australian political life as a contest between aggregate blocs or "syndicates" who competed for the benefits offered by government. Miller's conception of politically active groups is an interesting departure from the concept of "pressure" or "interest" groups, which unfortunately was not taken up with more gusto by other Australian writers. The view of Miller was that syndicates (business, trade, labour) band together to advance shared interests, using membership of, or influence on, political parties to ensure their views are communicated into the political arena (65). Miller continued to argue that the State was comprised of "special organs of syndical satisfaction", such as marketing boards and statutory authorities, that were incorporated into governments to
Here it can be noted that Arndt's view of the dangers of monopoly were not simply transferred from the economist's concentration on economic costs and rent seeking, but also focused upon the nature of governmental intervention in the economy. Under this approach business groups arose through a causal relationship: interventionist governments motivating business groups (especially those with the money to effectively lobby government) to become active and seek some form of inclusion in decision making that effectcd their industry or monopolistic holdings. This argument can also be seen in Newton's 1965 sociological inspection of "the economy", where he begins with an examination of the "myths" surrounding the Australian economy, identifying inequalities and concentrations of political power that characterised the government–business relationship of the time (in itself a function of the intrusiveness of government in economic affairs). Newton's view could be that of any number of political researchers of the time in the United States, when he concludes that:

> in the face of a tangled web of decision-making ... questions of policy are settled not as the result of public debate but through negotiation between administration and interested parties\(^47\).

What is important to note is that these works fail to demonstrate empirically either Arndt's "corporate syndicates" or Newton's "tangled web", and certainly fail to lead into the development of locally useful theoretical perspectives and models for further analysis of change and reform in this area\(^48\). In Mayer's "New Fashions in Pressure?" (1973) he explores the growth of social movements and the booming increase in the political motivation (or intrusiveness) of sectional and "special" interest groups in the 1972 elections. Mayer does not step far from the work of either Arndt or Newton, outlining in detail some of the developments in interest group activity, such as its increase in size and scope, especially for "social" or non-business groups. This position is seemingly more heavily influenced by the American pluralist model\(^49\) than early explorations, however this underpinning is not made clear by Mayer or used as a framework for the article. Harman and Blake in the same volume explore similar changes: Harman examining the growth of groups and their techniques to influence political candidates; and Blake directly exploring the prospect of Australian pluralism and the value of this theoretical development. Neither suggest any significant features that are unique to the Australian experience, and both centre their examination on the ethical questions of the threat or necessity of a pluralised polity. This ethical debate is itself based on a rather limited approach to the work of (largely) American pluralists. Parkin presents a stinging critique of this approach in 1980, arguing that, while Australian researchers moved through the concept of pure pluralism faster than their American peers, its theoretical character has never been debated honestly. Rather, Australian political scientists have admired the American approach for its educative value (dismembering the zombie of pluralism for undergraduate courses year after year), while essentially ignoring any theoretical engagement with the concept. This view is also taken by Bell and Wanna (1993) in their research of organised business interest, stating that while the issue of

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\(^{47}\) What is interesting here is the belief held by a sociologist that government policy making in the economic arena should be technical and focused on efficient results. This is a clear example of what Marsh called "a highly prized myth", that administrators can somehow focus on purely technical decision-making and are somehow able to be separated from "politics" (1983:27).

\(^{48}\) Both writers and those who come after them are not adverse to proposing changes that would serve better either to accommodate these interests in decision-making, or remove their meddling influence from the politics as the domain of the "public" interest.

\(^{49}\) The following chapter in this book explores the concept of pluralism in detail (Blake "The Pluralist Political Model").
business involvement in the political process has been long regarded as axiomatic, actual empirical data collection on this process has been limited. If anything, revised models of corporatism have had more appeal, with the approach getting limited attention in the mid-1980s and 90s (Loveday, 1984; McEachern, 1986; Stewart, 1991b; Downs, 1996).

Both of these themes—an absence of theoretical exploration and development, and a fixation upon the ethical question of interest groups’ impact upon Australian democratic principles, can be seen as over-riding features of this field of inquiry. Marsh's examination of policy making and interest groups (1983) outlines the increase of interest group activity in response to the Welfare State–Managed Economy model. Marsh's view (8) contends that the increase in government intervention in social and economic affairs parallels the growth of interest group activity and activation (Truman's potential pressure groups becoming politically active in response to a change of government policy, or in this case, the scope of government activity). What concerns Marsh is the potential of "pluralistic stagnation" that accompanies the growth of interest group activities, a concept drawn directly from his observation of policy-making developments in the United Kingdom50. He skims quickly over this potential threat to examine the relationship between interest groups and policy-making51, viewing their emergence as undermining the role of political parties in modern politics and policy-making. Marsh then suggests that the existing structure of government be adjusted to meet the new political realities of the time (i.e., the emergence of widespread, fragmented and politically demanding interest group activity), suggesting reforms of parliament, cabinet, political parties, and the role of ministers. From the opposite perspective Warhurst (1986) provides a defence of the significance of the increased political activity of "single-issue groups"52 (especially during election campaigns, making them more "political" than ever before). Warhurst does not definitively measure their impact upon electoral campaigns (although he argues that it could be significant for marginal constituencies), but moves on to defend the activities of these groups under the pluralist convention of countervailing interests. Why worry about their impact, he argues, when other groups are sure to organise if their own interests are threatened? Ultimately Warhurst does not develop theoretical perspectives in this piece, but defends a feature of Australian political life which (under the inherent pluralist framework he uses) will certainly be self-replicating and move towards political equilibrium53.

It can be concluded that the emphasis of writers in and around Australian interest group research has changed since Harman's (1973:233) assertion that interest groups were simply "powerful economic interests" (see Castles, 1970:222). The term "special interest" is, in itself, not particularly new. However, Australian political discourse seems

50However, by 1995 Marsh has expanded this view into an antagonism between pure pluralism and pluralistic stagnation.

51Here (16) Marsh takes the traditional view that interest groups are basically different to political parties because of their role in electoral politics and their function in aggregating diverse interests and "identifying emerging issues", a rather ambiguous claim. The role of interest groups therefore is to impress upon parties and ministers their view so that they may be recognised and taken under consideration.

52It must be noted that the definition of what is a single issue interest group is somewhat vague. Warhurst identified as single issue interest group as one that (1) "uncompromisingly elevate[s] one issue above not only all other issues but above any other more general political allegiance". Under this definition Warhurst includes the Australian Right to Life association and the Women's Electoral Lobby. Whereas abortion law can be seen to be contained within the spectrum of a "single-issue" (but which could be argued to have a number of implications and dimensions), it is unclear what the Women's Electoral Lobby's single issue would be.

to have shifted from the ubiquitous "Captains of Industry", secretly and corruptly pulling the strings of government. In recent times the term "special interests" have come to signify a far more insidious evil, the "liberal elite"\(^54\): a small group of professional social interests who have dominated policy making for their own particular benefit (Sawer and Groves, 1994:435; Sawer, 1997:73)\(^55\). While some may see this shift as significant in terms of the general (mis)perception of what an interest group actually is, at a wider level this can be seen as a simple a repetition of the arguments of the 1950s, 60s and 70s: What is the impact of interest group activity on "democracy" and the "public interest"? Do these groups (regardless of type) dominate policy making at the expense of "us"? These arguments themselves encapsulate what Connolly (1983:50) read into the analysis of interests in Western societies, the assumption of an individual or group's interest as representative of a "good", or more basically, the assigning of some value statement to the political activity of interest groups. If one fails to assign values to these actions, the questions themselves become meaningless and the moral outrage felt by many about the actions of interest groups can be safely abandoned.

Outside of this debate is the work of writers like Abbot, who explored the presence of interest groups around the Australian Federal Parliament (1996). Abbott's work discretely examines the growth of interest groups focusing their attention around Federal Parliamentarians, and engages in an empirical study of their activities based on the "organising principle" (xi) that interest groups' power and influence can be derived from their "internal authority" (the ability of their leadership to control and make agreements on behalf of their membership), and "external legitimacy" (the perception of the appropriateness of the group in developing policy around a particular political issue). Groups registering well on both measures can be seen to be powerful\(^56\). While this work certainly does reach beyond the limited theoretical developments of other writers in this field, the limited focus of the study (on the relationship between interest groups and the Federal Parliament) questions the generalisability of the study\(^57\). Separating one institution from the whole of government for the analysis did allow a detailed assessment

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\(^54\) Browning's (1990:3) "New Class" of interventionists are special interests who want to redistribute government funds, services, and representation towards self-styled victims and marginalised groups. Browning fails to recognise the irony of his exposé, citing the growth of social movements as "anti-business" groups. While it is true that the power of business interests to dominate policy making has declined with the subsequent growth of social movements in during the 1960s and 1970s, Browning fails to note the Australian Federal government's withdrawal from the arena of industry policy that occurred during the last twenty years. What Browning sees as a zero-sum game is in reality a distinct change in the nature of government intervention in the Australian industrial landscape.

\(^55\) This group has many popular titles: including the "Aboriginal Industry", the "Ethnic Lobby", "radical feminists", etc. References remain somewhat cryptic, but are associated with over representation in government, such as the view of the independent member for Kalgoorlie Graham Campbell who observed that "The Aboriginal Industry has far too much representation in this parliament. I think it is about time that needs and aspirations of all the aboriginal people were listened to." (Hansard, 6th May 1996). Apparently these groups are not just separate from the Australian "mainstream" but also from their own specific groups within society.

\(^56\) Here Abbott does not move far from the one-dimensional view of power as discussed by Lukes (1974) and others, as the capacity to apply coercive sanctions or positive inducements. Even without exploring the second and third dimensions of this illusive concept, Abbott concludes that observing the exercise of power is indeed a difficult task (how can one observe an implicit threat?), and power is also hard to attribute. Thus Abbott discards the possibility of proving a group has power in exchange for his more indirect measure: open channels of influence.

\(^57\) A similarly broad view of the role of interest groups is presented by Matthews (1988) in which he presents a typology of group-state power relations that divides power between the disruptive capacity of the group and the degree of state autonomy to present five types of group-based policy making: Corporate Politics, Negotiation, Closed Politics, Pressure Politics and Consultative Politics.
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of the nature and strategy of those groups who interact regularly with parliamentarians, but the relationship of these groups with other parts of the governments is still unknown. Thus, where Marsh (21) saw a new role for parliament in the successful inclusion of interest group politics ("Government by Discussion"), Abbott's research implies that this had occurred, however the scope of the empirical research leads to a questioning of the validity of this argument.

While interest in politically-active groups in Australia has developed a wide range of debate and academic publication, this work has been focused predominantly on descriptions of groups (Nicholson, 1973; Puplick, 1974; Beresford, 1977; Hocking, 1978; Scott, et al., 1980), and general trends (the rise of interest groups in Australian political life) and their democratic impact58 (the debate between the undemocratic power of groups versus the pluralist notions countervailing power). While theoretical interpretation of (largely) American and British concepts has been undertaken at these levels, and the general importance of groups in the political process been widely accepted, the role of the group as a key unit of analysis remains limited in Australian research. Scott's 1980 volume is an excellent example of this descriptive work, focusing on case examples from state-based interest groups. Scott himself, while stating that he wishes to avoid developing a model of analysis59, draws upon group theory from the United States and England to describe the case study trends highlighted in his book. The book presents empirical studies that lead to the verification of elements of these theoretical underpinnings, such as the distinction between types of groups (promotional versus protective), the importance of insider status, and use of political resources and internal coherence and organisation. However, while these points are interesting validations of elements of group theory, the overall feel of the work is arbitrary. It does not guide the path of the researcher, rather presenting the too common intimation that groups are somehow important in the overall process of government. What we find is that ware are left with the desire for a theoretical approach that directs and guides, while maintaining an underlying causal theory about the nature of groups and their role in the process of policy making that has been tested in the Australian political context.

Introducing the Models: From Problem to Theory

The models of Rhodes and Sabatier are concerned with the way that groups in the political system are involved in the development and implementation of policy. While the two models fit neatly into the overarching rubric of "group theory"—utilising groups as a convenient unit of analysis and placing these in "networks" of activity—each has approached this problem from a different starting point: For Sabatier, limitations of the traditional stages heuristic of policy making led to a wider consideration of the use of technical expertise in the political process; and, for Rhodes, the development of intergovernmental policy making led to considerations of the way policy is developed within networks of actors who establish exchange relationships to become part of the machinery of governance in modern nation states. However, it is clearly possible to situate both approaches within the pluralist debates of their home countries, and see the impact of local conditions on the focus of the two approaches. Thus, Sabatier and Rhodes see power as having been wrestled away from the legislative chambers upon which institutionalism focused analytical attention. However, this shift in attention upon the domains of the policy making has occurred for two different reasons. For Sabatier, power is fragmented because the institutions of policy making are fragmented constitutionally by the nature of the American polyarchy; while for Rhodes, the "government's right to govern", held as a fundamental of the British political system, has been whittled away by successive reforms of the structures, purpose, and nature of government. Thus, while the two approaches can be seen to have remarkably similar

58Another element of this work is the ethical value of professional political consultants and lobbyists (Tongue, 1997).
59Seeking not to become, in his words "Australia's answer to David Truman" (225).
underpinnings, the subtle differences between them reflect a vast range of cultural and institutional differences between the United States (with sympathy to the democratic work of Locke\textsuperscript{60}) and Britain (with a belief in the value of sovereignty presented by Hobbes\textsuperscript{61}) (Kavanagh, 1990:51). Thus, before examining the core elements of these theories as they will be applied to the Australian case study (in Chapter Three), we need to introduce their background, as it relates to the underlying problem of explaining the role of groups in the policy process.

**Explaining the Implementation Deficit: Sabatier**

The basis of the Advocacy Coalition Framework by Paul Sabatier (1991) stems from his difficulties finding a theory for implementation research that includes the vast array of political actors involved in the process, and accounts for the longevity of policy reformulation and learning. As a field of research, policy implementation is concerned with the way that policy documents are brought into effect. Traditionally, this work has focused around problems associated with the "implementation deficit": the difference between the aims and objectives of policy statements and the outcomes of policy practice. This problem has lead to the development of two competing schools of inquiry (Lester, et al., 1987:200)—the top-down and bottom-up approaches—each concerned with the problem of deficit and using criticisms of the other to drive along their theoretical developments. What we can see from these approaches, is while they have managed to enrich the debate over implementation, their differing foci have produced incompatible theories. This problem has led Sabatier to develop his approach and incorporate a wider view of the process of policy making and implementation than has emerged from the work of traditional implementation research.

The top-down school of implementation research begins with Pressman and Wildavsky's 1973 work on policy failure. Based on a case study observation, they utilise a simple statistical analysis to present the view that policy is subject to unrealisable difficulties during its passage into effect in the form of "clearance points"\textsuperscript{62}. Their overall thesis is depressing: Given a high percentage chance of clearance through each point, but a large number of points, the statistical probability of a policy reaching fruition is extremely limited. While this work has been through a number of reformulations (Fox, 1987:128; Bowen, 1982) based on the statistical problems associated with the approach\textsuperscript{63} or the underlying assumptions of the state\textsuperscript{64}, it was important in bringing the importance of implementation to the minds of political scientists. Thus, overall, the top-down school has focused on the problems associated with getting implementation to better match the stated aims of the original policies, focusing on the guidance of policy into implementation and rules to ensure greater compliance among service delivery agencies and the bureaucracy.

Rather than focus on conforming implementation to the original aims of the policy makers (at the "top"), the bottom-up approach is based on a detailed critique of the top-down school. This critique takes two forms. First, the top-down school is seen as based on a conceptual fallacy: the existence of an independent and separate "implementation stage" of the policy-making process. This limitation is based on the "textbook" or

\textsuperscript{60}That the state should rest upon the consent of the ruled.
\textsuperscript{61}That the state should have absolute power to prevent "war of all against all".
\textsuperscript{62}Or "veto points": decision making points where the policy can either be accepted, or rejected.
\textsuperscript{63}Bowen presents a number of variations to the simple "yes / no" view of clearance points (persistence, packaging of policies, de-coupling policies into components). This revision raises the chance of success of policies reaching implementation.
\textsuperscript{64}See Rose's (1979:351–70) views on the concept of "ungovernability" of the modern state that were prevalent during the 1970s.
"Laswellian"\(^{65}\) view of policy making (Nakamura, 1987:142–7), that implementation is a discrete step in the policy-making process\(^{66}\). Rather, the process of implementation was inherent in the policy development process itself, and separation undermined the analytical value of top-down school of research. Second, the approach was seen as lacking consideration of the organisations charged with implementation itself (Van Meter and Van Horn, 1975:452–8). Based on a Weberian view (1947:330) of the process of administrative control, it was argued that the top-down approach assumed a command and control mode of administrative behaviour (Fayol, 1916; James March and Herbert Simon, circa 1957) that did not exist in practice (Dunsire, 1978), and that the top-down approach had assumed the normative value of Weber's ideal type. What was needed, therefore, in accepting this critique of the Weberian bureaucracy (Etzioni-Halevy, 1985:34–40) was a better understanding of the real world conditions in which implementation occurred, rather than the assumption of the "noble lie" of the command and control bureaucracy (Elmore, 1980).

In developing the bottom-up approach, Lipsky (1980) presented a picture of the "street-level" bureaucrat implementing policy sent from "on high": caught between resource pressures, unclear and contradictory goals, and "groupthink". Under this conception, limited implementation and pragmatic "satisficing" feeds back into agency behaviour to become norms which alter the instruments upon which the "top" rely. Policy making and implementation, therefore, are intertwined. Elmore's approach (106–16) to this view extends the importance of the interface between the public and private organisations in the implementation process, seeing successful implementation as a result of clear articulation of the desired behavioural change by policy makers, and acceptance of the limitations and working conditions of the street-level. If this were straight-forward the process of bringing policy expectations and outcomes into alignment would be simple. However, Elmore's view seems too generous to the "noble lie"—that better interpretation of the constraints of the bureaucracy would limit the implementation deficit. In considering this concept of enforcement, therefore, Hanf (1982) argues that the view presented by Elmore on the importance of the public / private interface needs to be strengthened, but that policy implementation is not dependent upon a single hierarchical control process (as Elmore saw): Rather, it is subject to competition and co-operation of various public and private organisations. Implementation, therefore, existed in a complex process that was neither temporally linear or distinct in the way tasks were delineated, nor hierarchically determined because of the public / private interface and the multiplicity of hierarchies to which implementing organisations might belong.

Given these approaches, Barrett and Fudge (1981:10,13) highlight the essential problem for implementation: definitions differ over what "successful" policy making is\(^{67}\). For the top-down school, concerned with the concept of "control", variation from the stated aims...
of the policy is seen as failure, while for the bottom-up school, success is measured in terms of favourable outcomes and the capacity to bring implementation closer to the objectives of policy makers in an organisationally efficient and effective way. Thus, for Sabatier (1986), the top-down school of research lacks a focus on implementing groups and agencies, assuming that singular policy statements define the scope of the implementation process (especially where no discrete “singular” policy decision is made). However, the bottom-up school has neglected to include the core concerns of the original approach: the capacity for implemented policy to conform with the causal theory on which it was based, and the role of central actors who seek to steer policy along and who can be influential in defining the nature of resources available to the bottom. His response is a synthesis of these two schools which moves beyond implementation to what he calls a “general model” (38). The Advocacy Coalition Framework takes these critiques and includes them in the model: bringing in a range of policy actors and focusing on a medium-term timeframe for the analysis of policy making. What we can see in describing the model in Chapter Three, is that the approach is based on the bottom-up view that the starting point of analysis should be concerned with the problem area, linking groups together in a network. On top of this, the longer time frame for analysis allows lesson-learning to be incorporated into the model, and top-down concerns of structure and resource allocation applied. Implicit in this move is the view presented by Yanow (1987:111–2), that incorporating a wider range of actors into a consideration of the policy process extends beyond the view that the process of policy development and implementation was simply "broken".

The Limits of State Theory: Rhodes

Where Sabatier’s focus on networks stems from implementation theory and the work of the bottom-up school, Rod Rhodes’s view of governance developed from observation of changes to the policy making process in Britain following the Second World War. This focus is initially concerned with the role of intergovernmental policy making in the United Kingdom, which, because of the historical development of the parliamentary system (Kavanagh, 1990:259–60), remained generally vague and ill-defined (Hartley, 1971:447). Where local government had been neglected under the view of apolitisme Rhodes observed the development of intergovernmental relationships which included public and private sector groups and organisations who competed and co-operated in the process of policy making and service delivery (1988:13–4). The importance of this level of policy making became evident during the 1960s to 1980s, where reformed intergovernmental financing structures came under pressure due to fiscal limitations, and a desire by the conservative governments to rein in welfare spending and increase taxation (Rhodes, 1984). By placing networks as a key element of policy making in the United Kingdom, Rhodes attempted to position these structures inside a wider "macro-level" theory that would explain the overall character of policy making the Britain.

In essence, Rhodes's view of “governance" is a result of the limitations of this approach. Under Rhodes's initial conception, networks could be seen to provide a “figure" or basis for analysis of network interactions (1986:9), while an overarching theory (the "ground") applied to explain the pattern of resource allocations and the overall nature of policy making within Britain. Initially, Rhodes drew upon the work of Schmitter to explain the pattern of relationships within policy networks. Schmitter's definition (1979) of neocorporatism is:

>a system of interest representation in which the constituent units are organised into a limited number of singular, compulsory, non-

68 Jones (1979) sees local government in the United Kingdom as theorised in either of three ideal types: the principle–agent model, the partnership model, and the localist model. Neither was particularly grounded in empirical research, rather being generally ignored as researchers focused on the "grand politics" of the National Government.

69 Rhodes based his use of corporatist theory on Schmitter’s 1979 work.
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competitive, hierarchically ordered and functionally differentiated categories, recognised or licensed (if not created) by the state and granted a deliberate representational monopoly within their respective categories in exchange for observing certain controls on their selection of leaders and articulation of demands and supports.

However this approach attracted a wide range of criticism. Cox (1981), for example, identified numerous breaches and failings of the corporatist system of labour and capital integration, and presented the view that the analytical lens of corporatism (focusing on national trends as a theory of the state) implied significance that did not really exist. He argued that by moving the researcher further away from the micro-level of analysis, corporatists had over-estimated a limited number trends

In essence, the essential criticism of Rhodes's use of "state theory" to explain the division of power within British society is provided by Dowding who argues (1995:139–47) that Rhodes failed to utilise a theory of the state as a means of explanation, using exception and too limited application to justify the model as a useful explanatory tool for meso-level analysis. He stated (140–1):

*The problem here is with the very idea of a "theory of the state". There should be a misapprehension about the nature of state theorising. A true theory must be generalizable to all objects to which it is supposed to be applicable.*

As Jordan and Schubert (1992:7) state, the essential element of corporatist theory (like pluralism) lies in the assumptions that it makes about the power of the state. The state is seen to be able to command interests to comply with a strict intermediation structure, offering access to power in exchange for the delivery of blocks of public support (capital and labour). Groups within society are seen as pliable enough to concede to this form (in exchange for the inducement associated with inclusion) and other competing groups are merged, eliminated, or ignored during the process (Schmitter, 1979:22). This approach had a degree of validity in the original application of the Rhodes model, but not because of its emphasis on the control and co-ordination of the factors of production. Rather the British Labour Government during the 1970s was seen to be moving towards the construction of relatively tight, closed policy making communities through the use of the new public management tools or privatisation and quasi-market competition. For corporatists, the analysis of policy making is simplified to the interactions between the relative bloc leaders (leading unions, business leaders, and government officials) as these leaders are able to bargain for their relative organisations and ensure compliance

We can see that, as a researcher concerned with a useful generalisable theory of the national political character of Britain, Rhodes was more enamoured with the notion of corporatism, rather than its essence. With the fragmentation of the centre under Thatcher there has been no distinct corporatist revolution in Britain. Thatcher, Rhodes concludes, was less interested in corporatist intermediation than her Labour

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70 This, he states, is the largest failing of the model, based on the reductive elements of the approach (86–7). At the very time when the States in Europe were adopting corporatist management strategies, the necessary dominance of central economic direction was not being undertaken to demonstrate a national corporatist revolution.

71 It is important to note that the concept of what is a meso-level theory is entirely debatable. Dowding's view contrasts to that of Atkinson and Coleman (1992:159), who see the meso-level of analysis concerned with the way that groups are used instead of individuals as the basic level of analysis. Needless to say this debate is somewhat pedantic, however it does reflect the lack of clear definitional usage surrounding the various sources of policy network literature.

72 However Head and Bell (1994:56–8) argue that in democratic countries such compliance, or internal discipline, is less mandatory and more likely the result of group unity and "on-principle" compliance to decisions made in the corporatist framework.
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predecessors, which puts down Winkers 1976 estimation of Britain as a corporatist state by the mid-1980s. These failings led Rhodes first to de-emphasise the corporatist "ground" of the model recognising its limitations as a predictor of state action and an accurate definition of the nature of the British state. In recognising a wide range of variations in the nature of policy networks Rhodes reverted to neo-pluralism (1986b:16), accepting the view presented by writers like Atkinson and Coleman (1989:47) that the strong-weak state view of an overriding character to political relations is difficult to defend empirically. This leads to an acceptance of the fragmented nature of policy making through networks, and the unequal distribution of power between players in the political game: a point drawn out by Grant, et al. (1988) in widening the approach beyond strict welfare case studies.

Rhodes's acceptance of the neo-pluralist critique of corporatism (Rhodes and Marsh 1992a) leads directly to the development of his views on governance. While neo-pluralism accepts a wide range of policy making structures and power relationships under its banner (from tightly closed networks dominated by economic interests, to broader inclusive consultative structures), its emphasis on a renewed role for a state with autonomy fails to provide an explanation for changes that have occurred in the British governmental system. For Rhodes the concept of governance is based on observed changes to British political life during the 1990s, and also incorporates elements of his traditional approach. Generally, the definition of governance remains contested and different meanings of the term are used by the wide number of schools and areas of research who employ it. De Alcántara (1998:105) identifies its use in functional administration, corporate management, and intra- and inter-national government processes. For her, governance "involves the building of consensus, or obtaining the consent or acquiescence necessary to carry out a program, in an arena where many different interests are in play". However, this definition lacks a real articulation of the difference between governance and modern views of the plural state—where consent is often a necessary ingredient for successful policy implementation. Both de Alcántara and Stoker (1999:17–8) observe that the wide ranging use of the term has also served to mask a range of "reform of the state"-style activities (especially in the developing world). Stoker goes on to argue that "governance" has also become confused with neoliberal economic and organisational theorists who use it as a pseudonym for governmental downsizing and a reduced role for government in welfare provision and economic intervention—a normative, rather than descriptive, view. Opposing this view, he posits that governance is "ultimately concerned with creating conditions for ordered rule and collective action [emphasis added]". This concern, argues Merrien (1999:57) is the result of a "crisis" in traditional forms of control, related to the growth of policy making and service delivery subsystems, interconnectedness between issues (modern complexity) and declining capacity for state control in an era of globalisation. Because of these factors, he posits, governance is a response to the trends. However, he raises concerns about its applicability as a theory of government, and its explanatory power (64–5)—a concern to which readers of most state theory would be familiar. That is, that the scope of governance and its universal application by most proponents of the approach negate its value through its inherent reductionism and teleological interpretation of observed phenomena73. This view is also taken by Wilks (1989:331–2) in surveying the work of the Economic and Social Research Council's research initiative on government-industry relations, who, following the theoretical work of Rhodes, discarded the generalisation at a macro-level for international comparison.

For Rhodes, therefore, "governance" can be seen as (1996) a result in his previously identified changes to the national government environment. These changes include the

73Merrien also observes that the theory has been widely applied as both a description of current trends and a prescription for action by governments, and thus lacks the capacity for either verification or theoretical negation.
unstable support system, decline of mixed economy model, growth of the welfare state, functional and territorial specialisation, and development of non-class cleavages, and are also mixed with his view of the "hollowing out of the State": the decline in central government capacity for control through environmental and internal changes. Rhodes (652–3) defines governance as:

*a change in the meaning of government, referring to a new process of governing; or a changed condition or ordered rule; or the new method by which society is governed.*

Where this concept has been identified previously by Rhodes in the sub-central government (subgovernmental networks), Rhodes bolstered this view in the 1990s with observations of British investiture in the European Union and globalisation74 that leads to an even weaker state than that conceptualised through the use of neoplural views (as in 1988). Rhodes's precise use of the term governance is complex, related to six elements: the minimal state; corporatist government control structures; new public management; "good governance" (efficiency, service delivery); socio-cybernetics, and; self-organising networks (653). What each of these elements, when combined, shows, is that the modern British State, as a system of governance75, is a smaller, limited and directive entity that uses private sector management techniques and nominally fair (institutionally-constructed) competition through corporatist systems of control to steer the delivery of government services and regulation through co-operation with quasi-independent and interdependent organisational networks. Government, therefore, is about the establishment of objectives and organisational structures coupled with private sector delivery that can only be controlled through co-operation and pre-determined rules or legally enforceable contractual arrangements. Where government had traditionally used coercive power over public and private sector implementing agencies, this power has been eroded and replaced with self-governing networks. Control of the policy making process is contained within networks, rather than based on institutions (Parliament, the Executive, etc.). This change, by nature, limits the amount of direct centralised control by government to a range of indirect "rubber leavers" to steer policy along. For that for the Rhodes Model, therefore, this means the concept of over-riding state theory has been replaced with a view of policy making structures that focus on the meso-level of analysis, without stipulating a theoretical pattern to state activities outside of the important focus on institutional design and capacity.

**Conclusion**

This chapter introduced the underlying academic debates within which the Advocacy Coalition Framework of Paul Sabatier and Rod Rhodes's theory of Governance have developed. Starting from the conception of the state as a collection of independent or partially independent actors, pluralist theorists have posited the importance of interest groups in preserving a democratic nature to the modern mass society. This approach, based in a positivistic research framework, has developed since the first half of the century, first into a number of theories of the state (pluralism and neo-pluralism) which explored the importance of interest groups in modern liberal democracies, but which

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74 The term "globalisation" is not well defined by Rhodes, except to the extent that it increases the trend of other observations for the loss of control and regulatory capacity by the central Governmental units to external organisations, governments or bodies. On the subject of globalisation we can use Held, et al. for a definition (1999:15), who define globalisation as referring to "those spatio-temporal processes of change which underpin a transformation in the organisation of human affairs by linking together and expanding human activity across regions and continents". In this context Globalisation can be seen to increase the importance of supranational connections and activity in a way that limits national government intervention in the processes.

75 Rather than a system of ordered rule, based on structures of enforcement and the legitimate use of force, a system of steering and limited direction of quasi-independent, autonomous networks.
encountered significant limitations in explaining the causes for social changes and implementation failures. Additionally, in transporting the largely American view of pluralism, difficulties arose in applying the approach to Britain, where the system of interest-group democracy tended towards state intermediation and autonomy. In recognising the limitations of pluralism as a theory of the state (a macro-level theory), during the late 1970s and 1980s research emphasis shifted to individual policy domains, and the role of issue or policy networks. These networks provided a means of analysing group–state policy processes that allowed for variation between cases, stressing the independence of these “communities” from central direction.

In Australia, we can see that the use of group theory, largely imported from the United States and Britain, has focused on descriptions of interest groups in the political process, with an emphasis on the ethical / democratic questions of the impact of faction on democratic government. While Australia has not adopted a particularly pluralistic interpretation of our democratic process, an interest in policy analysis at the subgovernmental level can be seen (especially with an emphasis on case studies). Thus given our tendency to import and modify international theories into Australia, there exists a national interest in the role of groups in the political process. Finally, in introducing the background of the two approaches we can see how the work of Sabatier and Rhodes stemmed from distinctly different sources: Sabatier was concerned with explaining how the implementation process of policy could be explained (concerned with the problem of the neo-pluralists of implementation failure); while Rhodes’s view of Governance was developed from observation of the changing nature of the British government, the development of a “sub national” process of administration, and the insulation of policy networks from the institutions of British governance. Overall, therefore, while the two approaches share a distinct level of analysis and are concerned with policy analysis and group intermediation, the historical and institutional differences underpinning them result from different interpretations of the group basis of political life encountered by American and British pluralists. These two theoretical approaches are explored in the next chapter.
Chapter Three
An Overview of the Deductive Theories

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The Advocacy Coalition Framework
   The Policy Subsystem: Focal Point of Analysis
   Advocacy Coalitions and Subsystem Roles
   Values and the Importance of Ideas
   Guidance Instruments
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The Rhodes Model of Governance
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   Power-Dependency
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Sabatier and Rhodes Compared
   Similarities
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Conclusion

Introduction
This chapter examines the Advocacy Coalition Framework of Paul Sabatier, and Rod Rhodes's model of governance. These approaches, within the tradition of group-based political analysis, provide the deductive theory used for investigation of the case study: data which will serve to critique the models themselves. While the previous chapter showed that the origins of the two models are distinct, the two models share a number of concerns, namely: In political systems where power is diffused and a wide range of political actors interact in complex strategic relationships, what is the role of groups and individuals in shaping policy outputs and outcomes? How does change occur in policy making? and What is the role of state organs in today's policy process? In this chapter we will examine the essential characteristics of each approach: their analytical focus (the levels of analysis and primary research concerns), implicit theories about the sources and distribution of political and social power, the relationship between politically-active groups, their motivations for strategic action and connections between cognitive processes and policy preferences, and the way in which group action impacts upon policy outcomes and change. In doing so, this chapter presents the models as actionable research tools, rather than critiquing their elements prior to evaluation through the case study.

To undertake this exposition, this chapter is divided into three sections. The first section introduces the Advocacy Coalition Framework. In outlining the core elements of the theory, the components of the policy subsystem and wider socio-political system, as conceptualised by the ACF, are introduced, and the processes of policy making explained. For Sabatier, his focus on clusters of policy makers, brokers, and advocates (advocacy coalitions) shows how "aggregations" of interests (public and private, across the federal divide) can be clustered based on similarities in their systems of beliefs and values. Within a policy subsystem, political outcomes are the result of strategic action by coalitions, aimed either at key policy makers (sovereigns) or other coalitions. Additionally, by focusing on beliefs and values, the role of information and learning is
incorporated into the model, aiding in the explanation of change over time by looking at how coalitions use and interpret information. The second section of the chapter examines the theory of governance. This approach is based on two core conceptions of the policy making process: First, that policy making is contained within networks of policy makers (policy networks) drawn from the public and private sectors who are bound together by concrete resource-dependent relationships. Using their "appreciate systems" to interpret the world and develop goals and organisational interests, players in the political process engaged in a complex strategic "game" within "rules of the game" to achieve policy victories. Second, because of the growth of these policy networks, the importance of central political institutions (Parliament, Ministers, central Departments, etc.) has diminished and policy making is now insulated from the centre who have problems directing the processes of policy making and implementation. The final section examines the similarities and differences of these to models, showing that, while a range of similarities are apparent in the way the two approaches focus on "meso-level" structures, the focus of the models on networks and coalitions may not be interchangeable (and thus lessons drawn from either approach limited to that model). Overall, this leads to a number of interesting points to consider in the course of investigating the two approaches.

The Advocacy Coalition Framework

Sabatier developed his view of the Advocacy Coalition Framework (ACF) as a means of incorporating an analysis of policy implementation into a more dynamic understanding of the systems in which policy making occurs. After a period of development this approach was formalised in a book in 1993 (with Hank Jenkins-Smith) and, based on some empirical evaluations of the framework, additional modifications were suggested. This approach has been developed and expanded by Sabatier over the last fifteen years, with a number of other writers working individually and collaboratively to evaluate and improve the model (Heintz; Mawhinney; Brown and Stewart; Barke; Lertzman, Rayern and Wilson; Munro; Ellison; Schlager). For use in this thesis, therefore, developments up to this point (circa 1993–4) are taken as the model used for evaluation of the case study. From the previous chapter we can see that Sabatier's concerns were aimed at meeting the theoretical problems presented by the bifurcated research into policy implementation. This bifurcation can be seen in Sabatier's shift in perspective, from a nominal "top-down" perspective he came to accept the insights and criticism provided by the "bottom-uppers": namely, the importance of considering the role of implementing organisations and other involved groups in shaping political outcomes. This approach became formalised in the mid-1980s with a model that incorporated multiple actors and their political strategies in a "policy subsystem" where competing aggregations of interests debate the substance of policy. For Sabatier policy needs to be considered over a wider time-frame (ten years or more) to assess the full impact of policy implementation, learning, and change in the process. This timeframe gives the analyst the ability to assess, not only the policy development process, but the impacts of implementation and reformulation as well.

The framework is comprised of six core components, listed as follows: Within the wider socio-political environment which sets the "constraints and resources" of political actors, the primary focus of the framework is on the processes policy making and learning within a methodological construct: the policy subsystem. Within this subsystem the universe of groups and individuals concerned and / or active on the policy issue are included. These groups are abstracted into one or more competing "advocacy coalitions" which are collections of groups and individuals that share similar beliefs and values about the policy under debate. For Sabatier, beliefs and values guide individual or group action in their political life. Shared values can be used to map the relationship between various organisations within the policy subsystem. They underpin those "guidance instruments" (strategies) employed to attempt to influence decision making, and provide the causal theory upon policy positions are constructed. Overall, Sabatier provides a number of
hypotheses on which the framework rests, providing the researcher with a direct means of testing the approach through empirical case-study research. Each element will be examined in turn illustrating how the framework will be applied in analysing the case study.

**The Policy Subsystem: Focal Point of Analysis**

According to the ACF, the policy subsystem is the forum in which policy-making occurs. These subsystems are seen to arise because of a particular need (the lack of consideration of a policy area) or dissatisfaction with existing fora for political debate, and contain political actors from public and private life, and multiple levels of government. In these instances subsystems may split from an existing policy area, or arise surrounding a key government institution that provides a forum for policy development. Sabatier sees the subsystem as "the most useful unit of analysis for understanding policy change" (1988:131) because it incorporates the complexity of modern policy debates. In this way, the subsystem is similar to Griffith's "whirlpools" of policy making, in that, the concept is highly inclusive in the groups it accepts as part of the process and focuses on state institutions as points of access and influence, rather than as a singularly sovereign monolith. However, from the work of Heclo (1978:99), Sabatier broadens this view to incorporate influential individuals, such as academics, analysts, and journalist, who generate and move information around the subsystem and into the wider political environment. Whereas Heclo termed these individuals "policy watchers", gives the impression of a far more passive role for these individuals than conceptualised in the ACF. Therefore, the policy subsystem can be seen as a methodological construct: it consists of the universe of active individuals and their organisations, as can be identified from observation or secondary data sources.

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**Figure 3-1: The Policy Subsystem and External Influences**

1. Basic attributes of the problem area (good)
2. Basic distribution of natural resources
3. Fundamental sociocultural values and social structure
4. Basic constitutional structure (rules)

Constraints and Resources of Subsystem Actors

Environmental Externalities

- 1. Changes in socio-economic conditions
- 2. Changes in public opinion
- 3. Changes in systemic governing coalition
- 4. Policy decisions and impacts from other subsystems

Policy Outputs

Policy Impacts

Decisions by Sovereigns

Agency Resources and General Policy Orientation

Strategy A1 re: guidance instruments

Strategy A2 re: guidance instruments

Coalition A
a) Policy Beliefs
b) Resources

Coalition B
a) Policy Beliefs
b) Resources

Policy Brokers

- 1. Changes in socio-economic conditions
- 2. Changes in public opinion
- 3. Changes in systemic governing coalition
- 4. Policy decisions and impacts from other subsystems

source: Jenkins-Smith and Sabatier, 1993:18 *(annotated)*

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76 See my discussion of Griffiths in Chapter Two.
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Figure 3-1 illustrates the policy subsystem and its surrounding environmental impacts. As a subsystem it is linked back into the wider political environment (system) which, while not seen as directing the activities of participant organisations or individuals, impacts upon the relative resources and freedom to act of subsystem members. This borrows largely from Hofferbert's (1974) work on the impact of wider historical factors, socio-economic conditions, and temporal events on the policy-making process. Thus, the subsystem illustrated (on the right of the figure) is augmented by a series of external considerations (on the left). These externalities take effect by shaping the nature of the policy area (it's component parts / problems), setting the overall distribution of resources, providing a political culture in which certain norms of behaviour are mandated, assigning some organisations formal powers, responsibilities, and / or roles in public life. While these elements remain relatively static over time, short-term changes in other subsystems or the wider composition of the "governing coalition" (i.e., the balance of power in legislative or judicial bodies), alterations in public opinion and the economic cycle will shape the relative position of some groups in the way they can engage in the process of policy making. Essentially, while these elements are straight-forward, they serve to re-contextualise the policy makers into the wider systemic elements that influence the manner in which they do their work. Overall, therefore, the model is dynamic in the way that temporal changes, and the impact of the policy subsystem itself, feedback into the environment and help to shape the constraints on subsystem actors.

Advocacy Coalitions and Subsystem Roles
For Sabatier (in Sabatier and Jenkins-Smith, 1993:24) subsystems are comprised of institutional actors, pressure groups and like organisations, key individuals, and "latent" actors with an interest in the issue under consideration. What this presents is a wide number of organisations and individuals involved in the policy debate that Sabatier sees as potentially confusing and difficult to study individually. In attempting to overcome this problem (the complexity of the “18 lane spaghetti highway” as Heclo described it), Sabatier takes players with similar views and beliefs and aggregates them into competing "advocacy coalitions". This approach marks a departure from the a focus on single key actors / sovereigns (i.e., the President) or institutions (i.e., Congress) as pre-eminent in the policy-making process (Sabatier and Palkey, 1987), rather focusing on the impact of these aggregations on the shape and direction of policy development. These coalitions remain, it is important to stress, abstract constructs. Membership is applied by the researcher as a reductive means of determining the various general positions and preferred policy outcomes contested in the policy subsystem. However, while attempting to categorise these actors into advocacy coalitions based on value similarities (rather than concrete interpersonal or exchange relationships), Sabatier does display the tendency to reify the coalitions. Thus, he states that coalition members often "act in concert" in "non-trivial ways" (18), coalitions are "in control" of government organisations (28), and their collective views and beliefs shape their political strategies and the resources they apply to the task of policy-making (29). Thus, political debate within subsystems is usually based on the activities of one or more (but Sabatier stipulates seldom more than five), advocacy coalitions who, while categorised loosely by the researcher, may take on the role of formal coalitions promoting a shared interest. Implicit in his view of coalitions is, therefore, that those organisations with similar value and belief systems will tend to act in concert in the political process.

As advocacy coalitions can be comprised of government agencies and units, this shows Sabatier does not see bureaucrats and implementing agencies as neutral vessels.

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77 As illustrated in his "funnel" model of policy formulation (1974:228).
78 This concept is similar to Truman's view, but instead of having their preferences taken account of in the policy-making process, Sabatier sees these "actors" as potential groups for coalition recruitment (i.e., activation into the policy subsystem).
Rather, these organisations have specific views about the policy under consideration and predispositions about the direction to which policy should lead (Sabatier and Zafonte, 1994). For some governmental organisations / individuals (including, but not limited to politicians, senior bureaucrats, courts), however, their activity will be constrained by their role as "policy brokers": groups that mediate the position of competing coalitions to attempt to reach consensus and limit conflict within the policy subsystem. These brokers, while serving an important intermediary role, need not be excluded from the policy-making process (and therefore coalition membership). However they are constrained by their role in consensus building. Where government groups are directly involved in the policy debate, Sabatier sees these actors as both constrained by political / legal externalities and norms, and prone to take more centrist and less "extreme" positions than their interest group allies within the coalition (Sabatier and Jenkins-Smith, 1993:213–4). While this view could be based on the conceptualisation of government organisations taking a "median-voter" approach to their deployment in the political spectra (from a institutional rational choice perspective79; Sabatier, 1991b:151), it is based on the fragmented nature of policy making in subsystems. Because of the incorporation of actors from various federal levels, and the separation of powers in the American national government (Wilson, 1989), federal agencies, nominally directed from Cabinet, remain subject to law making and influence from a range of other political actors (sovereigns). As Weingast and Moran (1983:765) understand, the influence of congressional committees on federal bureaucracies tends to moderate their behaviour, and influence their objectives and activities. In doing so, therefore, agencies are forced towards positions that are between those advocated by their various sovereigns (Morrow, 1969:23; Goodwin, 1970).

What the conceptualisation of advocacy coalitions within the policy subsystem shows is that, in incorporating competing groups and individuals into singular coalitions based on values and beliefs, Sabatier accepts the multiplicity of decision makers and access points for policy change and modification. This reflects Sabatier's definition of policy as (1993:28) consisting of "a set of goals and directions, or empowerments, to administrative agencies for implementing those goals". Policy is not singular, nor contained within one jurisdiction or portfolio, but spread between different organisations who attempt to bring it into force. This contrasts with the linear model presented in Chapter Two, when tends to see policy as singular in both content and applications (one policy being delivered through one process to one agency for implementation). Thus, while figure 3-1 shows the subsystem as a relatively orderly cybernetic model with simple input and output streams and internal feedback mechanisms, it must be stressed that the ACF conceptualises the multiplicity of access points to which coalition members might attempt to influence policy. Thus, figure 3-2 illustrates how an advocacy coalition, while acting in concert over a policy program, may be active at any number of levels within the federal structure. While this reflects the division of power within the United States, it also incorporates the complexity of modern policy implementation, where a wide array of organisations from various jurisdictions may become involved in delivery of services and administering regulation, each with their own political and legal responsibilities (sovereigns) and degrees of permeability to influence and pressure politics (Jenkins-Smith and Sabatier, 1994:189).

Figure 3-2: Advocacy Coalition Activity

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79Moe, for example (1990:145), would argue that bureaucracies which seek to develop a degree of autonomy from change (because they wished to avoid uncertainty in the wider socio-political environment) may look to position themselves centrally in a cluster of groups to gain the most political support for their compromise position.
Values and the Importance of Ideas
Because the ACF classifies groups into competing coalitions based on their shared beliefs and values, Sabatier provides a tool for conceptualising the belief systems of political elites. This approach serves not only to show the complexity of human beliefs and values, but also provides for measuring changes to coalitions and subsystems based on shifts in these beliefs. At the core of this approach is the relationship beliefs and values have with policy programs. Sabatier (1991a) accepts Pressman and Wildavsky's view that policy is developed on the basis of causal assumptions about the nature of the world. Thus, policy (concerned with the question of problem) is essentially defined by Sabatier as about the achievement of goals. Thus, as policies are means to achieving environmental ends, the "fit" between these causal views and real social factors will determine the success or failure of a program. For Sabatier, policy debates are not simply based on competing views about what should be achieved from the policy process, but also in the different causal theory organisations' and individuals' use in developing their respective positions. By developing a clear assessment of these beliefs and values, the researcher is able to cluster like groups together in competing coalitions, not just through observation of their public actions, but also via the relationship their deeper world views share. This approach for developing a picture of coalition membership, and the relative position of members within them, is illustrated in figure 3-3. What we see here is that, while networking strategies have been applied by researchers examining interactions between politically-active groups, Sabatier's approach is more indirect in its assumption that shared beliefs will transfer into shared action.

Figure 3-3: Advocacy Coalitions and Value Mapping
Australia’s Online Censorship Regime

What should be noted here is that the interaction between “elite” beliefs and the orientation of their host organisations remains difficult to determine. Advocacy Coalitions are groups of individuals and organisations who are linked together by shared beliefs and values that direct their political activities. However, Sabatier’s focus on belief systems is an individualistic approach: organisations have no will of their own—they are the expression of the work of those who comprise their system\textsuperscript{80}. This point is worth noting, and can be brought into focus by considering Bar-Tal’s definitions of personal, common, and group beliefs (1990:35–8). For Bar-Tal these three sets of beliefs are neatly divisible: personal beliefs as those an individual perceives as being uniquely his or her own; common beliefs being those seen as general fact, and group beliefs are “convictions that group members (a) are aware that they share and (b) consider as defining their ‘groupness’” [emphasis in original]. For Sabatier, however, organisational motivations are assigned to the dominant belief systems of those elites who represent the organisations in a the public sphere. Thus elites serve as “markers” for the general orientation of the overall organisation, group, or unit. As markers, they are presumed to, at least tacitly, sanction their activities\textsuperscript{81} even if their exists a variation between elites and their constituencies / peers (Sabatier and McLaughlin, 1988).

This difference between group beliefs and the methodological use of “marker” elites is partially motivated by the theoretical development of Sabatier’s approach to studying value systems. In utilising beliefs as the basis of analysis Sabatier takes several views from Putnam’s work on comparative elite analysis (1976): First, beliefs and values are more useful in gauging political outcomes and estimating reaction to future events than traditional surveys of leaders’ stated opinions (79); Second, belief systems are complex, dealing with cognitive views of society (causal theory for Pressman and Wildavsky), normative values (how the world should work), interpersonal views of others, and structural characteristics of the system itself (80). What Sabatier and Hunter (1989:230–1) wanted to emphasise, however, is that these belief systems are subject to change and learning, which feeds back into different policy orientations of these individuals at different points in time. Because of this complexity, Sabatier proposes a detailed model for the structure of elite beliefs which, because of the layers at which change and learning can occur, are more subtly flexible than explicit beliefs articulated by group members as part of a publicly shared consensus of values. For Sabatier, the construction of value systems, as they relate to policy, draws together the normative and the cognitive into a three-tiered structure illustrated in Table 3-1. What this table illustrates is that policy views are an articulation of a number of levels of belief, from broad normative views about the nature of the world, through interpretations of this personal philosophy to the policy area, and into concrete program preferences. These levels are interactive (the fundamental levels instructing the less deeply-held aspects) and interdependent. However the capacity for change is variable between the different levels of belief. What this distribution shows is that, while general orientation towards some elements of policy will be flexible and easily conceded by coalition members, the more closely a policy element is related to the core beliefs of elites, the more resistant to compromise or change.

<table>
<thead>
<tr>
<th>Table 3-1: Structure of Belief Systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deep (Normative) Core</td>
</tr>
</tbody>
</table>

\textsuperscript{80}In the same way that state institutions can be seen as neutral “vessels” for whoever can occupy and “steer” them.

\textsuperscript{81}Barrett (1970:4–14) identifies three ways that individual-group goal differences can be accommodated within organisational structures: via exchanging goals to form a synthesis; through socialisation to bring the individual in line with the organisation; and, via accommodation of difference.
Australia's Online Censorship Regime

<table>
<thead>
<tr>
<th>Defining Characteristics</th>
<th>Fundamental normative and ontological axioms</th>
<th>Fundamental policy positions concerning the basic strategies for achieving deep core</th>
<th>Instrumental decisions and informational searches necessary to implement policy core</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Scope</strong></td>
<td>Part of basic personal philosophy. Applies to all policy areas</td>
<td>Applies to policy are of interest</td>
<td>Specific to policy area / subsystem of interest</td>
</tr>
<tr>
<td><strong>Susceptibility to Change</strong></td>
<td>Very difficult; akin to religious conversion</td>
<td>Difficult, but can occur if experience reveals serious anomalies</td>
<td>Moderately easy; this is the topic of most administrative and even legislative policy making</td>
</tr>
<tr>
<td><strong>Illustrative Components</strong></td>
<td>1. The nature of humanity: i. inherently evil vs. socially redeemable</td>
<td>1. Proper scope of government</td>
<td>1. Most decisions concerning administrative rules, budgetary allocations, disposition of cases, statutory interpretation, and even statutory revision</td>
</tr>
<tr>
<td></td>
<td>ii. part of nature vs. dominance over nature</td>
<td>2. Proper distribution of power federally</td>
<td>2. Information concerning program performance, the seriousness of the problems, etc.</td>
</tr>
<tr>
<td></td>
<td>iii. narrow egoists vs contractarians</td>
<td>3. Identification of social groups whose welfare is most critical</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. Relative priority of various ultimate values (freedom, power, etc.)</td>
<td>4. Orientation on substantive policy conflicts</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. Basic criteria of distributive justice: whose welfare counts?</td>
<td>5. Magnitude of perceived threat to those values</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>6. Basic choices concerning policy instruments</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>7. Desirability of participation by various segments of society</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>8. Ability of society to solve problems of this policy</td>
<td></td>
</tr>
</tbody>
</table>

**source:** Jenkins-Smith and Sabatier, 1993:31 (abridged)

Because of the analytical focus on values and beliefs, the ACF includes consideration of how these value systems change over time. Essentially, while Sabatier sees coalitions deploying political strategies (the concept of Guidance Instruments, which is discussed in more detail below), policy change is also brought about by modifications to individual, group and coalition beliefs and causal theory. This is incorporated in the subsystem model, with feedback loops showing how lesson drawing from policy outputs and impacts informs coalition members. However, the deployment of information to inform and persuade is also an important part of policy change. Therefore, while coalitions may attempt to gather support through the activation of latent groups who share values with the coalition, coalition members may attempt to bring non-aligned organisations into the coalition through persuasion. Additionally, in defending their policy positions and attempting to influence the decisions of sovereigns, coalition members will seek to brace these views with technical knowledge from sources that are perceived to have legitimacy in the debate (bureaucrats, academics, etc., Sabatier, 1978). However, while information can be applied in this “educative role” (increasing the general level of serious analytical debate over the policy issue), Heintz and Jenkins-Smith (1988:269) observe that information can also be used for non-policy learning. What this means is where the level of political conflict is high and the issue is not suited to analytical debate (through the lack of an appropriate forum for debate, shared language and definitions of the problem by participants; Jenkins-Smith, 1988:193–204), information will be used rhetorically, with little chance of increasing the level of policy-oriented "learning" by subsystem members. Thus, as technical experts are important as coalition members, the level of genuine policy learning is heavily affected by the intensity of political debate (Sabatier and Jenkins-Smith, 1993)83, itself a product of the level at which competing belief systems are in conflict.

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82This leads to a situation where the logic of action encourages increased generation of "information" specifically designed for rhetorical impact by other coalition members attempting to defend their positions.

83A situation that either encourages or discourages the establishment of fora where analytical (rather than rhetorical) policy debate can occur.
**Guidance Instruments**

While Sabatier sees changes to belief systems and the use of information as important in shaping policy development, the key source of incremental policy changes are the various strategies applied by advocacy coalitions. They consist of (Sabatier and Pelkey, 1987; Sabatier and Jenkins-Smith, 1993):

1. **Statutory Authority**: The use of legally enforceable rules to bring about changes in behaviour;
2. **Budgetary Review**: By decreasing or increasing an implementing or funding provider’s budget, the scope and impacts of policy decisions can be curtailed or extended. Additionally, the capacity for an agency to engage in substantive activity in the subsystem can be affected;
3. **Appointment / Change Personnel**: Control over the appointment of sympathetic individuals to positions of authority or oversight (agency heads, judges) can influence the operations of the organisations and the nature of the policy responses;
4. **Pursue Changes to Agency Rules / Change Background of Agency Staff**;
5. **Participation by Outsiders in Agency Decisions**: Actively bring interest groups and other agencies into the decision-making process to alter the nature of policy making;
6. **Publication of Evaluation Studies / Research Reports**: This information can be aimed at the policy problem, or assessments of the agency itself—either to raise of limit their perceived credibility / effectiveness in the policy subsystem;
7. **Bribe / Offer Inducements to Officials**;
8. **Court Decisions**: These decisions can directly challenge a policy (through challenges to its constitutional validity), alter it’s implementation (by negating clauses), or mandate some form of positive action (such as extending the duty of care of agencies to certain aspects outside the original policy). Additionally, Sabatier and Pelkey (243) note that some decisions can have wider implications throughout the subsystem and externally via the “chilling effect” on similar practices not directly covered by the legal ruling;
9. **Attempt Changes in Legislation**;
10. **Publicity / Change Public Opinion**;
11. **Pursue Electoral Strategy**.

Within this range of options, therefore, consideration of guidance instruments to deploy my coalition members will be based on assessments of their relative cost (worthiness of pursuit of the strategy versus the resources of the organisation) and potential effectiveness (scope, duration, time lag) compared to the probability of success of the approach and the importance of the policy elements within the organisations belief system. Thus, the greater the importance of the debate, the greater the level of willingness of groups to expended resources relative the chance of success of the approach. In these assessments and decisions, information is not perfect nor pure rationality assumed, as assessments and evaluations of strategies are themselves part of the overarching belief system of coalition elites.

**A Summary**

For investigation of the case study, the Advocacy Coalition Framework allows for the evaluation of policy making over a time period of ten years or more. Sabatier uses a number of theoretical constructs—the focus upon the policy subsystem as a useful point of analysis and conglomeration of individuals and groups to competing advocacy coalitions—to show the complexity of the policy making process, and allows for a fragmentation of power between and among the various levels of the federal structure. By focusing on the relationship between policy, causal theory, and value systems, Sabatier provides the researcher with a different way of assessing the motivations of organisations, their relationship within competing coalitions, the intensity of political debate, and how change occurs in the policy subsystem. Change, therefore, is not simply related to the deployment of guidance instruments to influence the policy development and implementation process, but is also the result of changes to the belief
systems of coalition members—either through learning based on internal feedback within the subsystem, or the role information plays in shaping their views. Overall, Sabatier and Jenkins-Smith provide us with a number of general and specific hypotheses relating to the ACF which are listed in figure 3-4. These hypotheses both summarise the key theoretical assertions of the framework, and allow for selective testing of parts of the approach through empirical verification. Some of these hypotheses, therefore, will be tested explicitly in Part Three.

Figure 3-4: Hypotheses of the ACF

**Hypothesis One**: On major controversies within a policy subsystem when core beliefs are in dispute, the lineup of allies and opponents tends to be rather stable over periods of a decade or so.

**Hypothesis Two**: Actors within an advocacy coalition will show substantial consensus on issues pertaining to the policy core, although less so on secondary aspects.

**Hypothesis Three**: An actor (or coalition) will give up secondary aspects of a belief system before acknowledging weaknesses in the policy core.

**Hypothesis Four**: The policy core (basic attributes) of a governmental program in a specific jurisdiction will not be significantly revised as long as the subsystem advocacy coalition that initiated the program remains in power within that jurisdiction—except when the change is imposed by a hierarchically superior jurisdiction.

**Hypothesis Five**: The core (basic attributes) of a governmental action program are unlikely to be changed in the absence of significant perturbations external to the subsystem, that is, changes in socioeconomic conditions, system-wide governing coalitions, or policy outputs from other subsystems.

**Hypothesis Six**: Policy-oriented learning across belief systems is most likely when there is an intermediate level of informed conflict between the two. In such a situation, it is likely that:
1. Each coalition has the technical resources to engage in such a debate; and
2. The conflict be between secondary aspects of one belief system and core elements of the other or, alternatively, between important secondary aspects of the two belief systems.

**Hypothesis Seven**: Problems for which accepted quantitative data and theory exist are more conducive to policy-oriented learning than those in which data and theory are generally qualitative, quiet subjective, or altogether lacking.

**Hypothesis Eight**: Problems involving natural systems are more conducive to policy-oriented learning than those involving purely social or political systems because in the former many of the critical variables are not themselves active strategists and controlled experimentation is more feasible.

**Hypothesis Nine**: Policy-oriented learning across belief systems is most likely when there exists a forum that is:
1. Prestigious enough to force professionals from different coalitions to participate; and
2. Dominated by professional norms.

**Hypothesis Ten**: Elites of purposive groups are more constrained in their expression of beliefs and policy positions than elites from material groups.

**Hypothesis Eleven**: Within a coalition, administrative agencies will usually advocate more centrist positions than their interest-group allies.

**Hypothesis Twelve**: Even when the accumulation of technical information does not change the views of the opposing coalition, it can have important impacts on policy—at least in the short term—by altering the views of policy brokers or other important governmental officials.

**source**: Sabatier, Jenkins-Smith, and St. Clair, 1993

The next section reviews Rhodes's model of governance, the second theoretical approach applied to the case study.

**The Rhodes Model of Governance**
Rhodes’s view of policy making is based on the interpretation of the Britain as a "post-parliamentary democracy" or "hollow state". This view holds that we no longer live in a period where a unitary government exists, rather policy making is undertaken in a range of networks of disaggregated political actors who link together public and private resources and desires. This approach is taken from the work of Richardson and Jordan who, based on group theory, examined the importance of policy making "communities" within the United Kingdom. As we can see from Chapter Two, Rhodes uses the term governance to overcome his difficulties in finding a model of the state that can be applied with explanatory value. Given that theoretical models that seek to explain how the (unitary) government works and produces political outcomes (state theory), acceptance of the state as "hollow" negates the value of an overriding singular model of character of modern policy making. This means that, while a neo-pluralistic view of the policy making process may have allowed for the variances in observed phenomena that Rhodes encountered during his corporatist period, its tendency towards exceptionism prevented his work from drawing any meaningful explanatory value from the macro-level of analysis. Governance, therefore, becomes a substitute for this macro-level approach, explaining the overall character of British policy making based on a number of observed trends at the national level that have reached into the sub-national layer of group intermediation. Governance itself is a national trend, describing the fragmentation of central institutions and the lack of direct authority in the traditional institutional-constitutional use of the concept. It does not, however, stand alone from the wider "Rhodes model". Quite the contrary, governance and the importance of groups and interorganisational exchange are interrelated concepts that both support each other and allow the analysis of policy to process at the micro- and meso-levels.

This section outlines Rhodes’s approach as applied in this thesis, examining the causes and support mechanisms for group action in policy making. Within this context we can situate Rhodes’s meso-level analysis: the focus on policy networks as the nexus in which policy making occurs. Whereas advocacy coalitions provide Sabatier a conceptual means of coupling together similarly motivated groups, networks are utilised by Rhodes’s approach because of the concrete and ongoing patterns of interaction between them. These interactions, between individuals within organisations as open systems, form the basis of Rhodes’s explanatory theory: the process of resource exchange and interorganisational dependencies. We can see that, while the identification of networks allows for the location of power in the policy making process, it is resource dependencies that provide explanation for the outcome of the political process itself.

**Governance In Context**

For Rhodes governance—as a description of the process of ordered rule in an increasingly disorganised and loosely-coupled, disjointed, and weak state (1997b:43; Luhmann, 1982)—relates to the way that the implementation and formation of policy has become decreasingly subject to effective command and control from the national government. At the very centre of the State, Rhodes argued that changes to the British system of government has produced a fragmented Cabinet—less concerned with developing grand policy than the co-ordination of independent networks within which Ministers and their Departments reside. Whereas many traditional approaches to the study of British politics reified the Cabinet into a tight policy making body, Rhodes (14–6) argues that the modern Executive needs to be reconceptualised within a wider

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84 Other terms include "centreless society" (Luhmann, 1982) or "differentiated polity" (Rhodes).
85 Rhodes sees some of the public administration changes as representing increasing levels of control over specific elements of policy while at the same time having a reduced capacity to direct certain parts of the implementation process.
86 Punnett (1968:176) states that it has traditionally been represented emphasising its strength and autonomy, especially over other decision making or democratic institutions (i.e., the view of "Cabinet dictatorship" over the Parliament).
Australia's Online Censorship Regime

cluster of co-ordinating agencies and organisations. The fragmentation of service-delivery roles among increasing numbers of public and private bodies through the process of "new public management" (contracting, alternative service delivery mechanisms, reliance on other organisations for policy implementation, purchaser / provider splits, etc.) has led to the role of this "core executive" becoming more a means of precluding excessive overlap and demarcation disputes than an autonomous decision making body. Rather than viewing governance as a useful tool for the imposition of restructuring, or approaching the issue of "rubber leavers" as a problem for resolution (questioning how the centre can be more successfully coercive in an era of governance), Rhodes uses the approach as a setting for the study of networks. Rhodes, therefore, can be seen to view governance from the bottom by focusing on the role of networks in the policy-making and implementation process. For Rhodes, the question of "ordered rule" is not a problem of the loss of authority at the centre (as it is for Merrien, or "ungovernability" was for Rose); ordered rule stems from policy making inside autonomous policy networks. Thus, governance is about interdependence, resource exchange, game playing, and autonomy where control is decentralised and the state less able to direct policy development and implementation.

Policy Networks: The Focal Point of Analysis

Because of Rhodes's somewhat "bottom-up" approach (having de-emphasised the role of the centre in producing policy leadership), the focal point of his model lies at the networks that make and implement policy (the "meso level"). For Rhodes, these networks are central to understanding governance, seeing the value of "[p]olicy networks [as] a tool for exploring how power is exercised in modern Britain and who benefits from its exercise" (1997a:10). As a structure of policy making, Rhodes identifies these networks as having a number of key effects: First, they constrain the membership of the policy making "club" by regulating their interrelationships; Second, they regulate collective behaviour through the establishment of network norms. These "rules of the game" constrain behaviour within the network, stipulating the nature and type of relations and the political strategies that may be employed by members (Rhodes, 1986a:17); Third, through the control of entry and rules of the game, networks inherently privilege some groups over others—either in terms of access to the implements of policy making and / or the rewards of governmental programs; Fourth, they routinise relationships to establish order and decrease environmental uncertainty among members; and, Finally, they act in an incremental manner based on their exchange relationships and the negotiation and diplomacy maintenance of these relationships requires. Overall, while Rhodes's (1997b:45) networks are autonomous and self-governing, this feature of policy making remains within context of the general deployment of political resources that groups may have access to. Resources which may be asymmetrically divided between public and private organisations.

Thus, governance accepts all manner of networks, the nature and character of the policy making process observable within a single nation need not adhere to the characteristics or causal theory detailed in a specific "theory of the state", but is be the result of the impact of the type of policy or the deployment of resources within the policy network. These factors—the impact of the type of policy on the network; the traditional deployment of responsibility or authority over the issue under consideration by the network; and the variation between "ordinary" and "grand" issues (Rhodes, from the work of Lindblom, 1985)—can be seen to impact on the nature of the network and the way that the policy making occurs (through modifications to the rules of the game). This last factor stems from the work of Lindblom who saw that grand issues pertained to the "fundamental structure of politico-economic life" (i.e., the general distribution of

87 Rhodes takes Lowi's maxim and turns it on it's head, stating "policies determine politics". What this means is that the nature of the policy under consideration impacts upon the way the policy is made (his example being the policing policy network being authoritarian).
resources in society) and ordinary issues (by nature all others). Thus, while definition of these issues may be difficult, in a general sense the case study could be considered an "ordinary" issue, while the 1999 Goods and Services Tax debate a "grand" one. Thus, Rhodes—following the analysis of Laffin (1980)—identifies the character of these policy networks as variable, lacking the existence of a single “style” of policy network within the nation.

To this end Rhodes advocates the comparison of policy networks based on their variation along five key axes (1985:14–5):

1. **Constellation of Interests** of the participants of the policy community. (*i.e.*, their concerns or aims with the policy and process);

2. **Membership of the community**, the nature of the participants (*e.g.*, public versus private sector). These groups will vary by their functions (regulatory, service delivery, consultative, etc.), resources, geographic spread and public or private nature, though combinations of these characteristics is likely;

3. **Vertical Independence** of groups at one level of government, especially where policy making networks are dependent upon another tier of government to contribute to the success of the policy (such as the implementation, monitoring or support of a policy);

4. **Horizontal Independence** of the community from other networks (such as dependence upon, or conflict with, other policy networks);

5. **Distribution of Resources** between network members.

These axes served to form the basis for the development of a typology of ideal types of networks88, which Marsh and Rhodes (1992) developed into a continuum between highly closed and integrated *policy communities* and loose, disaggregated and open *issue networks*. The elements of this continuum in table 3-2 (as a division between the ideal types), show how the five network axes can be used to classify the policy making network.

<table>
<thead>
<tr>
<th>Dimension</th>
<th>Policy Community</th>
<th>Issue Network</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Membership</td>
<td><strong>(a) Number of Participants</strong></td>
<td>Very limited number, some groups consciously excluded</td>
</tr>
<tr>
<td></td>
<td><strong>(b) Type of Interest</strong></td>
<td>Economic and / or professional interests dominate</td>
</tr>
<tr>
<td>2. Integration</td>
<td><strong>(a) Frequency of Interaction</strong></td>
<td>Frequent, high-quality, interaction of all groups on all matters related to policy issue</td>
</tr>
<tr>
<td></td>
<td><strong>(b) Continuity</strong></td>
<td>Membership, values and outcomes persistent over time</td>
</tr>
<tr>
<td></td>
<td><strong>(c) Consensus</strong></td>
<td>All participants share basic values and accept the legitimacy of the outcome</td>
</tr>
<tr>
<td>3. Resources</td>
<td><strong>(a) Distribution of Resources (within network)</strong></td>
<td>All participants have resources, basic relationship is an exchange relationship</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Some participants may have resources, but they are limited and basic relationship is consultative</td>
</tr>
</tbody>
</table>

88Originally, Rhodes (1990:304) formed five types of networks: Policy / Territorial Communities, Producer Networks, Professional Networks, Intergovernmental Networks and Issue Networks. However, these distinctions were discarded for the Policy Community–Issue Network continuum, as presented.
Australia's Online Censorship Regime

(b) Distribution of Resources (within participating organisations)

<table>
<thead>
<tr>
<th>Hierarchical, leaders can deliver members</th>
<th>Varied and variable distribution and capacity to regulate members</th>
</tr>
</thead>
</table>

4. Power

| There is a balance of power between members. Although one group may dominate, it must be a positive sum game if community is to persist | Unequal powers, reflects unequal resources and unequal access. It is a zero-sum game |

source: Marsh and Rhodes, 1992:187

What the analytical focus on networks shows is that, within the process of governance, the study of politics can be confined to the network of organisations who develop and implement policy. These policy networks have a variety of resources and aims and can form horizontal (between other networks) and vertical (intergovernmental) relationships. Thus, while classification on the typological spectrum provided by Rhodes and Marsh can allow for an understanding of the nature of the policy network under study, and the relative deployment of power among its member organisations, this is an ad hoc explanatory tool. What is needed to complete the picture of Rhodes's model is an explanatory "engine" that shows the reasons and rationale for action within the network structure.

Power-Dependency

While governance specifies the importance of networks, it's approach is less explanatory (in terms of the provision of underlying causal theory) than state theory allows. What is missing from the meso-level of analysis is the reason behind network formation (Why do networks form? Why do they form in the manner they do?) and the motivation of groups to engage in the process (Why do groups become politically active?). While networks themselves serve as the foci of analysis, Rhodes's view of their importance is based on factors that motivate their formation and give them longevity. For Rhodes, groups are not singular entities, but organisations that are open systems, that is, their functions and activities are motivated by inputs and outputs to the environment and their relations with other groups. Rhodes takes on Benson's (1982) work on interorganisational relations. Benson sees networks as:

a complex of organisations connected to each other by resource dependencies and distinguished from other clusters or complexes by breaks in the structure of resource dependencies.

While an organisation may not have ongoing relationships with all the groups in it's network (Kenis and Schneider, 1989), the relative position of any organisation (centrism to the greatest hub of connections) will heavily influence its number of dependencies and relative power in policy making process.

This "exchange model" of organisational interaction stems from an acceptance of organisations as open and that social and organisational relationships take the form of exchanges of resources (Foa and Foa, 1980:77). Where this approach developed from economic theories of the process of exchange, consideration of non-monetary and non-tangible "resources" allowed the approach to be developed into a wider view: the theory of social exchange. Stated simply, this approach conceptualises the use of resources, through exchange with others, to reap social benefits (status, love, friendship, etc.). When applied to organisations (especially politically active organisations; Easton, 1965; Metcalfe, 1974:651) it allows a focus on exchange to create power and influence. As

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89 Benson's work is also influential on Rhodes approach in the way that Benson considers (from Aldreich) a strategy of abstraction (the development of theory about interorganisational relationships that can be generalised across contexts), and the situation of the approach (from Karpik) within a historical context (in Rhodes case this is seen in his development of the Sub-Central Relations thesis towards governance, discussed later in this chapter).
Nord (1980:127–30) states, viewing organisations in networks that are created via ongoing exchange dependencies we can see how resources can be exchanged for other forms of resource (for example, using money to acquire influence or access). Additionally, this allows us to see how organisations can form mutual dependencies in a positive-sum game. Thus, where simple transaction theory can be applied to describe interactions between politically active groups, exchange theory shows the logic of network structures because of their mutually beneficial character. Rhodes, therefore, applies these ideas to policy networks, showing not only why networks form (to create positive-sum relationships), but also why they have permanence over time (because of mutual dependency). For policy networks, therefore, he terms this relationship "power dependence".

Thus, while the policy network forms the basic unit of meso-level analysis, it is Rhodes's use of power dependence that provides action to the relatively static view of these closed, formalised inter-organisational couplings. Where a multiplicity of actors, each with varying resources, demands, needs, motivations, and authority meet to negotiate and cajole policy decisions, separating their role and resources from other players in the political process artificially attributes them independence they do not have. Power is therefore relational (Lukes, 1974:13) and it is the distribution of resources that will characterise how the "game" of politics is played: either in terms of mutual bargaining and negotiation, coercion and compliance, agenda setting and defining the nature or fora for policy debate. What is important, however, is realising which organisations have important resources (e.g., those that are able to be exchanged and are of value in the political sense90). This approach, therefore, brings in the complexity of modern policy making, allows for variation within networks91 without being atheoretical, and explains why change occurs: either at an environmental (the overall pattern of resource distribution), a meso (the access of the organisation to resources relative to other groups), or temporal level (the importance of the resource and it's value / scarcity).

Taking his lessons from the social exchange theorists therefore, Rhodes sees politically relevant resources are numerous and complex. Where pluralist writers looked at resources in terms of political legitimacy (Truman, 1951), financial resources (Lindblom, 1977), and structuralism provided views on institutional legitimacy, constitutional and legal power, Rhodes brings these together as a list of potential resources acts have to play. Rhodes's list of political resources are:

1. **Constitutional-legal:** The discretion powers governmental organisations have at their disposal may be in dispute (i.e., constitutionally or legally questionable) or neatly divided among participants. Similarly non-governmental organisations may seek to utilise legal action against other groups, or challenge the legitimacy of policy making, legislation, or implementation;

2. **Hierarchical:** The ability to issue commands and / or require compliance as conferred through the relative position of organisations within government. Thus central agencies often have the ability to place some forms of control over line agencies or units (such as reporting requirements);

3. **Financial:**

4. **Political:** Politicians, especially Ministers and elected officials, have access to decision making capacities beyond simple negotiation. Where Ministers and their Departments clash over policy issues, the authority of their elected position is, theoretically, pre-eminent. Similarly elected representatives have the right to develop public support for the proposals;

5. **Informational:** Different actors in the political system have varying degrees of access to information, expertise and professional support. Often this may be shared

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90Value, in the market context, can be seen as the attribution of scarcity to the resource.
91As a theory of exchange it learns from Homans's (1958:600–1) view that real world groups lack equilibrium, a movement away from traditional economic approaches to exchange.
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(between departments, within departments), but this also serves as a significant source of potential power and influence in the policy-making process. Where specialised, highly technical policies are concerned, the influence of experts and specialist non-governmental interest may monopolise, not only information, but the ability to interpret and use this information to advance their own particular interest. These resources are also not easily separated from each other, and their relative value (as political power sources) is situationally dependant. Thus, groups that control financial resources often also have the ability to develop informational resources as well. However, depending upon the political climate, the value of such may vary.

Essentially, power dependency stresses the importance for groups to become involved in networks for the advancement of their preferred policy outcomes. Interaction with other organisations allows the exchange of resources to advance one’s standing (such as the transferral of legitimacy for information, financial resources for access, etc.) and these policy-making networks are the location to find and court potential partners with complementing resources. Rhodes used this approach to explain how central agencies required the resources of local authorities (to implement their policies), which, via exchange, gave local governments the ability to influence policy in turn. What this approach shows, is that power is preserved in groups inside the “charmed circle” of the policy network, a circle that tends to develop permanence and resist external pressures (for access of policy change) to maintain it’s hold over the process of policy making. While resource-exchange relationships subject organisations to ongoing dependencies on their network partners, this provides access to the tools of policy making and reduces risk. For those groups outside the network, their capacity to influence policy is limited and therefore strong motivation exists for them to gain access to the network through acquisition of a scarce resource. Thus, it is possible to see the boundaries of policy networks (as illustrated in figure 3-5) as a kind of semipermeable membrane, where groups with sufficient power, or admirable resources can cross the boundary between outsider and insider, depending on their capacity or form a resource-dependency with an insider group or groups.

Figure 3-5: Policy Network - Insiders and Outsiders

The Appreciative System and Network Norms

92A term borrowed from James Mellow.
While power dependence explains how power is a product of policy networks, Rhodes's model also seeks to explain the reasons behind political action. Where the concept of resource exchange tends towards overt rationalism (i.e., the assumption of organisations as "rational actors" seeking to maximise their strategic advantage; Stinchcombe, 1986:153), Rhodes does not allow the principles of utility maximisation or equilibria to drive the model along. The guiding principles behind the organisational logic of power dependence is, therefore, divided into three areas: Goals, the Appreciative System, and Strategies. The first two areas are directly interrelated: Goals are the stances that various groups and actors have regarding their preferred policy outcomes (Rhodes, 1981:103). Leaving aside the methodological limitations of determining, from the outside, the goals of various groups vis-a-vis the variety of policy debates they may simultaneously be involved in, it is important to highlight that goals themselves are not distinct from the political process (they are shaped by negotiation and the outcome of conflict).\

Additionally, Rhodes draws upon the work of Vickers (1965), in arguing that goals themselves are merely the short term expression of the appreciative system of the players. Vickers's view stemmed from two positions: that the process of development and implementing policy cannot be planned (in the sense that policy makers do not have access to perfect information), and that policy (or regulation) is a circular process that can be borrowed from the systems theory. Hence, policy involves setting targets and establishing a feedback mechanism to ensure that performance meets desired criteria. Appreciation in Vicker's view, is the human version of the feedback mechanism of a self-directing system, it involves “making judgements of fact about the ‘state of the system’, both internally and in its external relations”. These evaluations, or reality judgements are combined with value judgements: the entity that makes assessments of the “real world” also determines the inherent value of what it is that they perceive. Reality judgements, Vickers's claims (41) are essentially meaningless without value judgements, without a basis for assessment, measurement is valueless. An individual or organisation may have views about a wide range of issues and policies. These need be organised into a system that relates reality to value, and which orders these concerns depending on the weight they are attributed (67). Vickers concludes that an individual's appreciative system will be complex and their various views and opinions interrelated and interdependent.

Rhodes's application of this concept, illustrated in figure 3-6, is neither simple, nor easily assessed. For Rhodes the appreciative system incorporates many of the intangible elements of the decision-making process that are normally ignored or poorly handled by other approaches (where the actions of organisations are seen to relate directly to both

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93Gross defines goals in terms of a number of different dimensions (1969:284), but specifically notes that organisations have “output” and “support” goals. Output goals relate to those achievements that the organisation wishes to bring about through the course of its day-to-day activities and processes, the fulfilment of these goals can be seen in the artefacts produced by an organisation and the statements it makes about its activities and motivations to others. Support goals, on the other hand are more closely related to the maintenance of order and a work culture (community) within the organisation and are less easily determined by the casual external observer. What Gross emphasises is that goals are both broad and vague, often including a range of subgoals and motivations that may be located in different parts of the organisation or held by individuals. Thus, the problems of suboptimisation become apparent, where groups within an organisation may peruse limited goals related to their immediate interest or processes. This view is more complex than those who assign goals on the prima facie evidence of observable actions by the organisation, and resolves the problem held up by those who claim that the assignment of goals to an organisation is impossible (as to reify the organisation).
their goals and their world view\textsuperscript{94}. The appreciative system is the “world view” of organisations involved in the policy making process: it incorporates the organisation's interests (as opposed to goals), their assessment and expectations of other players with whom they deal, and value judgements about what they observe in the environment. The system includes historical data (organisational memory about past actions, interactions, and policies) as well as the application of organisational values to what has been learnt and how lessons can be applied to current and future political contests\textsuperscript{95}. Where Rhodes separates goals and the appreciative system this distinction is, in itself, essentially artificial, as organisations are motivated by their inherent interests to use strategies and suggest policies in line with whatever goals they have in regards to the current issue. Similarly, Rhodes adds another level of complexity to this concept, stating that the norms held within the appreciative systems of groups shape their interactions in very much the same way as hierarchical or constitutional/legal resources do. Thus, the distinction between a local authority who implements a central agency policy because their appreciative system leads them inherently to believe in the supremacy of the centre over their jurisdiction, would act in the same manner as one constitutionally bound to do so.

Figure 3-6: The Appreciate System and Environmental Feedback

\begin{center}
\begin{tikzpicture}

\node (world) at (0,0) {World View (Appreciative System)};
\node (goals) at (0,-3) {Goals};
\node (norms) at (goals|-world) {Norms};
\node (mem) at (norms|-world) {Organisational Memory};
\node (input) at (goals|-world) {Assessments of Other Organisations};
\node (interests) at (mem|-world) {Organisational Interests};
\node (environment) at (4,0) {Environment};
\node (output) at (environment|-goals) {Output};
\node (constraints) at (environment|-goals) {Constraints on Action};
\node (feedback) at (environment|-input) {Input / Feedback};

\draw[->] (world) -- (goals);
\draw[->] (world) -- (norms);
\draw[->] (world) -- (mem);
\draw[->] (world) -- (input);
\draw[->] (world) -- (interests);
\draw[->] (goals) -- (environment);
\draw[->] (norms) -- (environment);
\draw[->] (mem) -- (environment);
\draw[->] (input) -- (environment);
\draw[->] (interests) -- (environment);
\end{tikzpicture}
\end{center}

In his work on the nature of values within the policy process Young (1977:2) argues that a wide range of different (and contradictory) definitions have been used to describe the nature and role of personal beliefs and world views in the policy-making process. Young uses the term \textit{assumptive world} to describe the intermingling of belief, evaluation, and direction (and thus his work is similar to, and draws upon, that of Vickers). This concept, or “definitions of the life situation” (4), is inherently linked with the concept of goals and action as the individual's or group's assumptive world provides cues\textsuperscript{96} upon which behaviour is based. Values and goals, therefore, are essentially interrelated concepts, however a distinction can be made in the level of explicit recognition by an organisation.

\textsuperscript{94}These goals are judged through examination of the organisations outputs, those tangible products or artefacts that are distributed to other organisations, groups and individuals if which an organisation has contact (Gross, 1969).

\textsuperscript{95}Bennett and Howlett (1992:289) would divide learning into a number of categories. These categories separate what is learnt, by whom and to what extent, however it is important to note the lessons are neither compartmentalised, nor entirely logical in the way they are used and what values are attached to certain lessons.

\textsuperscript{96}Dissatisfaction with observed and preferred phenomena.
Australia's Online Censorship Regime

of what their motivations really are (this does not necessarily translate into public recognition, however). Thus, goals can be defined as such because they are explicit, regardless of their time-span of operation (thus an organisation may have short-term and long-term goals, or statements that reflect a desired outcome the organisation wishes to achieve). Values are essentially unspoken in a formal sense, but may be included in organisational value statements (which may or may not be related to the organisations actual values\(^{97}\)). Under this conception Young, et al. (1980:57–8) see the process of interpreting the world as both structured (recognising the importance of events, evaluating them, feeling connected to them and acting on this information) and functional (dealing with the uncertainty of life).

Because of this uncertainty, groups and individuals use both their assumptive world and strategies to reduce this problem (as uncertainly creates risk). For Rhodes, uncertainly is tied into the way that groups use power dependencies as an essential part of the processes of networks. By recognising the uncertainties of the future, these relationships can serve to reduce risk by normalising and routinising interaction with other members of the political environment. This process is itself not without risks, where power is created through the process of exchange, care must be taken by participants not to become too highly dependent upon their “dancing partners” in policy networks. This view is developed by Mascarenhas (1988:36) who argues that, in observation of simple networks of groups engaged in power-dependence exchanges\(^{98}\), organisations are conscious of the dangers associated with developing asymmetric dependencies. When this occurs, conflict is created within previously stable network environments. As conflict breaks down the synergy created by the resource-exchange process—remembering that the process of exchange is not a zero-sum game—rational actors will seek to avoid conflict and preserve relatively stable relationships over time. Thus, in seeking resource-dependencies that avoid risk, rules are need between organisations to prevent conflict within the network.

In explaining the importance of stability as part of the appreciative system of key network members Maurice Wright (1988:609) provides a useful explanation of the importance of “mutuality”. For networks to retain the benefits they gain from inclusion, they accept and expect that mutual advantage and benefits will result from their ongoing participation. Thus, general norms regulating behaviour are required and need to be shared across the network. Indeed, without these norms it is difficult to see how a network can exist at all. To explain this Rhodes (1988:91–3) adds another level of complexity into the model: the concept of “rules of the game” (Truman, 1955; Lijphart, 1968) or the values about the network held by the “political elite”. It is important to make a distinction between Rhodes's use of the term "rules of the game" and that of writers like Foà and Foà. The latter writers see these rules as defining the game itself (that is, explaining how resource exchanges occur in general game-theory situations). Thus, Rhodes's approach is based on shared norms of behaviour between the appreciative systems of organisations, where Foà and Foà's approach is based on normative axioms from the rationalistic social-exchange perspective. Thus, as highlighted by Befu (1980:202–3), rules of the game in

\(^{97}\)However, it could be argued that these statements are symbolic, or deliberate attempts to change organisational culture though top-down management of the organisation. The extent that an organisations actual values match the articulated ideals could be a possible area of study using the method discussed by Low in Centre and periphery : assumptive worlds in the Department of Community Welfare Services of Victoria, what Low attempted to do was determine the values of various groups and individuals through a survey consisting of ranking scales and open ended questions. When compared in a map format this allowed key areas of congruity to be highlighted and key values and views to be determined. As the study was semistructured, the associative system of the research was not seen as a potential contaminant to the research instrument.

\(^{98}\)In this case Government Departments and Public Owned Enterprises.
resource-dependent relationships are not strictly based on reciprocity or mutuality, but are essentially social norms of behaviour that give rise to "strategies of exchange" (action within socially-constructed parameters in which maximisation of utility can occur).

For Rhodes, the rules of the game are (1988:91–2):
1. Pragmatism: Disputes should not stop the "job getting done";
2. Consensus: Agreement is better than imposition;
3. Fairness: All parties should be able to state their case;
4. Accommodation: Where consensus cannot be achieved, losses are minimised;
5. Territoriality: Actors don't extend their demands beyond their known remit;
6. Secrecy: Discussions are private and limited from wider scrutiny;
7. Depoliticisation: Issues are subject to technical criteria in financial distribution;
8. "Summit Diplomacy": Decisions should be taken by elites;
9. Local Democracy: Local government's have a legitimate sphere that is "out of bounds" to central government;
10. "The Right To Govern": Certain matters are of national interest and the centre has the right to intervene;
11. "Trust": Access is based on assessments of reliability (especially for rule six).

In pre-emptive defence against any of these being violated, Rhodes states that these rules are neither immutable nor always operational. Herein lies a dilemma: in what way do these operating rules differ from the ill-defined or, at the extreme, unknowable elements within organisational appreciative systems, and how these rules essentially vary from the values which groups place upon other elements they hold to be important (such as local autonomy, democracy, or participation)? In essence, however, through the use of Rhodes's typology of networks—from strongly integrated to widely atomistic—Rhodes demonstrates how the relative degree of either consensus on, or adherence to, the rules of the game can be included within the concept of the policy network showing how network stability is based on inter-organisational values as an independent variable. Therefore, while the rules of the game are often unspoken and uncodified, they remain part of the network's culture of co-operation, rather than the basis upon which interorganisational negotiation occurs. This is an important difference as, in reality, the distinction between the rules of the game and the appreciative system of organisations is indistinct, separable only into network-focused values and policy-focused values.

A Summary of Rhodes
Rhodes's approach, as applied to the case study, shows the interaction between three levels of analysis. At the macro-level, the increasing capacity for central control ironically created the processes of governance: concern with control and authority in a loosely integrated political system. Governance itself emphasises the meso-level of analysis, that is, an emphasis on policy network as a unit of analysis within which policy making is contained and constrained. This process is tied together by micro-level interactions between individuals in a complex game that relies on exchanges of politically-relevant resources to achieve power and produce policy outcomes. Politically active groups are themselves motivated by their appreciative systems, which use environmental scanning to modify interests into short-term goals and strategies. Within the network structure, therefore, groups attempt to deploy their resources to create influence and minimise dependencies. These interactions are themselves part of a wider set of rules of the game or shared norms about the exchange processes within the policy network. Overall, what Rhodes demonstrates is how power is defused within public and private policy-making networks that have their own internal processes to regulate the political process.

Sabatier and Rhodes Compared
In presenting the two models it is useful to consider their similarities and differences. These will provide both areas of potential cross-verification of the research findings and points of departure for evaluation of the rival approaches of handling observed
phenomena. In this assessment, therefore, we can see that while both approaches come from distinctly different national backgrounds (from which empirical investigation shaped the theoretical development of the models) and the two authors have had almost no direct interaction in their theoretical work, the approaches share some remarkable similarities that have arisen either spontaneously, or through similar conclusions drawn from the existing body of group-based political theory. Additionally, it is important to note some potential limitations shared by both approaches, as a cue to observing how these factors may be important in analysis of the case study.

We can get insight into the broad similarities of the approaches via Alexrod's (1997:126) view of "complex adaptive systems". His view takes "as given the existence of the lower-level actors, and generates higher-level actors from the interactions among them". In this way both models use groups and individuals as the core elements of greater policy-making structures (policy networks and advocacy coalitions) that are a response to changes within the macro-level political environment (either the rise of new issues in the political system, or the hollowing out of the state to increase the importance of autonomous policy-making networks). Overall, these structures are seen as the result of a fragmented polity, where power tends to be literally decentralised (for Rhodes) or defused throughout the political system (for Sabatier). These structures are either reified or assumed to act as a reified unit, in which bureaucrats and government agencies are not neutral but engage in political debate and pursue their own goals (subject to external constraint). Thus, these aggregations of groups and individuals, regardless of name, serve as vehicles for the expression of political interest and will. They use political strategies to promote their policy-oriented interests, which themselves are based on a distribution of resources that is limited by the external environment, and can often be asymmetrically divided among political players. Through conceptions of value and appreciate systems, these organisations and aggregations are given motivations (causal theory for Sabatier and interests for Rhodes), and the capacity to learn in a cybernetic-like manner (feedback, incrementalism, cyclical decision making processes).

While the core similarities of the two approaches are quiet varied, we can see that the key differences in these approaches are based largely on one basic principle: the conception of how power can be attributed in the models. For Sabatier, the fragmentation of political institutions and multiplicity of access points to sovereigns allows for power to be spread throughout the policy subsystem. While one coalition may be able to dominate the policy-making process, decisions can be influenced, moderated, and altered by other coalitions with control over agencies that have a role in policy implementation. What this shows is that, while Rhodes's focuses on a singularly strong concept of policy networks as "insiders" with autonomy and control over policy making and implementation, Sabatier's dispersed power necessitated the analytical focus on the subsystem, rather than the dominant advocacy coalition. Additionally, while these two units of aggregation are both situated at the "meso-level" of analysis, the type of linkages joining the groups into these larger structures is fundamentally different. While Rhodes sees network members as sharing some values (through the rules of the game that serve as network norms), Sabatier sees coalition members as sharing a high level of the most deeply held beliefs. Thus, as we can see in figure 3-7, the two concepts, while fundamentally different, are not incompatible, rather they present different ways of aggregating interests based on the assumption of the nature of power distribution. This means that, while it might be possible to group together organisations into discrete coalitions based on shared values, patterns of resource exchange might show that competing coalition members are in resource-dependent relationships with each other.

Figure 3-7: Compatible Views of Policy Networks and Advocacy Coalitions

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99Sabatier references one of Rhodes's books in 1993.
Australia’s Online Censorship Regime

What we can see from the two parts of figure 3-7 is that, while the two approaches are compatible, they can be used for mutual validation or invalidation of one or both of the approaches. As we can see in the figure, in (i) the value of both methods of aggregation is verified if advocacy coalition a also comprised of the policy network members who can be seen to have dominated the policy-making process (through attribution of political “wins” to the constituent organisations). On the other hand, in map (ii) of this figure: if the network members are seen as pre-eminent, then the value of the Sabatier’s method of aggregation is questionable; if an advocacy coalition is seen as dominant, then Rhodes’s approach is invalidated; finally, if neither is the case, then both approaches fail to live up to the descriptive value their author’s advance.

Potential Limitations of the Approaches
While this chapter has not sought to critique the approaches and present reformulated or a synthetic theoretical approach for the purposes of fair evaluation, the overview of the approaches presented prompts a number of questions about their application to the Australian context. These questions are summarised as points of departure from the models that can be explored in Part Three.

(I) Questions of Institutional Power
Stemming from the traditions of group theory, both Sabatier and Rhodes see institutional forms of power as being limited by fragmentation, competition, and the theoretical importance of dealing with policy as both an output of the political process and a series of environmental outcomes. What is interesting is that, while within the United States the tradition of seeing institutions as constrained is a norm of the discipline, Rhodes's acceptance of British politics as a system of governance has broken the reliance on the strong executive model of policy making in that country. However, while Rhodes and Sabatier are similar in the way that political institutions are decoupled and power is seen as diffused among these autonomous and partially autonomous figures, the question of authority and direct decision making is handled differently by the two approaches. While Rhodes conceptualises traditional institutional (and political / cultural) sources of power within resources controlled by groups in policy networks, for the ACF we see a greater distribution in the sources of political authority. This, by nature, is directly connected to its development in the United States, and relates to the way that Sabatier has utilised his view of sovereigns in the policy-making process. This view is based on the work of Downs, who sees power as diffuse and contested in respect to organisations. He states that (1967:44–5):
Any organization or person who has legal authority over the bureau can be considered its sovereign. Bureaus can have more than one sovereign ... or only one. In many cases the sovereign's power is quite limited either by law ... or by custom.

What this means is that, while decision making is conferred back to organisations and the variety of decision makers who influence their operation, in the Australian context we can expect to see substantially fewer sources of directly competing sovereign power. This can be seen both at the agency level (where inter-ministerial agency responsibility is extremely rare), between the executive and the legislature (for the lower house), and the executive and its "systemic governing coalition" members in the upper house of the federal parliament (because of the effect of disciplined parties and the incorporation of government senators into the Cabinet). Thus, Rhodes gives policy networks independence (autonomy) from central direction, a move that gives networks singular control of policy development (least on "ordinary" areas of policy making). Sabatier on the other hand sees this fragmentation of the centre as providing access to sovereigns by competing coalitions. Thus, rather than policy emerging from a single coalition (as a "network of actors") policy emerges from the overall interaction of subsystem members. Hence power is more pluralised and Sabatier's approach lacks the view that to win power, others must loose access to it. What will be important to consider in the evaluation of the case study, therefore, is how these views of the power of the centre transfer into the Australian context. A context that contains the federal structure familiar to the Advocacy Coalition Framework, but retains the Westminster traditions and the strong party model. It has not been established, we should note, that Australia has moved beyond strong institutionalism to a system of governance in the same manner of the United Kingdom: a question that can be explored by looking for sources of power within networks or coalitions.

(II) Coalition and Network Formation

Sabatier and Rhodes present remarkably similar reasons for the formation of subsystems and policy networks. They are seen emerging in policy areas that are either wholly "new", or where existing areas become complex or crowded and spawn specialised subgroups that examine related, but discrete issues. Over time, these groups of organisations tend to formalise their relationships (either through value-sharing within advocacy coalitions, or through the establishment of rules of the game relationships in networks) and policy making, learning, and change can occur. However, uncertainty remains about the way these processes develop in both approaches, especially given the detailed assessment they provide to the activities of the systems when established. While the logic of collective action of politically active groups and individuals has been examined by a large number of writers (Hardin, 1971; Quiggin, 1987; Dunleavy, 1988; Oliver and Marwell, 1988; etc.), and fits logically in Rhodes's and Sabatier's theoretical approaches, the question of formation seems to have lacked detailed assessment. Both approaches see groups' activation and involvement as expressions of their interests and values, but also that groups might be brought into the system (or "activated" if latent) through the use of information to increase the level of support for a coalitions view of policy. In this, it is important to question how these formative processes shape the policy-making process over time, and if these formations are truly spontaneous developments within the political environment. In selecting our case study, formative coalitions and networks can be examined, with the possibility of getting a better insight into the way these key policy-making structures arise.

Conclusion

This chapter presented the two theoretical approaches to be utilised to analyse our case study of computer network content regulation. While the approaches are distinct in the way they focus on different key areas of analysis (policy networks versus policy subsystems) and use different explanatory approaches for the evaluation of policy-
making, we can see that the approaches are both well within the general rubric group-based approach to political research because of their special emphasis on the role of formal and informal organisations in political life. The approaches vary in their underlying views of causality and the conceptualisation of the role of authoritative decision makers in the policy-making process. These, and other similarities outlined, show how the approaches are both useful in the analysis of our case study, and can serve as comparative theoretical perspectives for evaluating them in the Australian political context. The final Chapter of this Part reviews the methodology employed by these research tools. It illustrates how their theoretical differences and variations of emphasis combine to lead to very different research methodologies for the investigation of policy making.
Introduction
The focus of this study is on the value of the two approaches presented in Chapter Three for political research in Australia. As conceptual tools directing positive research, the theories have been developed using specific methodologies. These methodologies are operationalise the theory presented in Chapter Three for empirical application. Thus, while the methodologies used by Sabatier and Rhodes are applied in this study to investigate the case study itself, these methods will also be explicitly evaluated in Part III. The two methodologies are presented in Table 4-1. What this shows is that, Rhodes—focusing on the complexities of interpersonal relationships between organisational actors in policy networks—relies on the interview method and reputation sampling as the basis for investigating the process of governance, while Sabatier—interested in changes in belief systems—has utilised the more abstract method of multivariate clustering based on publicly available documentary sources.

<table>
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<th>Research Stages:</th>
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In addition to overviewing the research methods employed to investigate the case study from the two approaches, this chapter also a number of supplementary methods for

* Elements of this chapter and associated appendices were published in Chen, P, and SM Hinton, 1999, “Realtime Interviewing Using the Word Wide Web”, Sociological Research Online, 4(3), September.
investigation of the case. Specifically, the use of electronic mail, computerised content analysis, and an online interviewing method via World Wide Web-based were employed to supplement the methods advocated by Sabatier and Rhodes. Thus, in concluding Part I, this chapter will introduce the case study approach; outline the two research methodologies (in order), identifying their key components, and the advantages and disadvantages of each; compare the approaches and present considerations of their potential joint limitations; and, finally, a number of methodological variations specific to this thesis will be introduced and discussed in some detail, providing an indication of how and why these methods were included in the overall research plan.

**The Case Study Approach**

As the two research tools are bound up in case analysis, this section introduces the underlying premise behind the focus on a case (as opposes to other methods, such as cross-sectional studies). The case approach—widely used in the social sciences (Taylor, 1994:535)—is a specific, detailed investigation of a single event, issue, group, area, or community (Stoecker, 1991:88). In developing the case a wide range of different research methods can be applied to generate information about the subject under investigation. This information can be sourced from either deductive or inductive research methods (both can be combined in large case analysis), and where only archival sources are utilised, the research is largely non-reactive. Overall, the case approach is valuable in that it provides the researcher with a detailed set of information, from which specific theoretical nuances can be examined and explored (Molnar, 1967:1–3)—a use which may not be possible in wider-level studies. The use of case studies is limited in the number of comparisons that can be applied—either longitudinally (over time) or latitudinally (between different cases)—because of its specificity and, as the detail required in the development of case studies is time consuming, the capacity of the researcher to conduct a statistically large sample of cases is limited. However, the method is valuable in that it allows multiple theoretical approaches to be tested against the same set of events using multiple data sets of the same phenomena, and is therefore a useful in the evaluation and comparison of theories (as in this thesis).

In identifying the advantages of utilising the case approach in research, there are a number of problems and potential limitations that need to be identified and addressed. The key limitation of the approach results from the "n of 1" problem: the limited number of cases that can reasonably be undertaken by the researcher. This problem has a key effect: broadly, the value of the case study's insights are limited to the case itself (because of the specificity of the study's scope and limited use of wide-scale quantitative data collection) thus, while theoretical developments can be gained from the case, it is not possible for the researcher to generalise beyond the case with a high degree of confidence. Additionally, the involvement of the researcher in the detail of the case can create problems of objectivity (where the researcher has no source of comparison outside the case study), and "projection" (Neck, et al., 1996:49), where the lack of objectivity and problems of missing data lead to the subconscious application of existing personal views and bias to complete the "picture" of the case study. Overall, however, Stoecker argues that the limitations of the case approach can be attacked through less ad hoc methods of case construction. What he advocates, and is utilised here, is the formalisation of the case approach within an overall research plan based on investigable theory and a clear methodology. This formalisation allows for comparison (between cases, between competing theories) and the establishment of a set of norms (or objective criteria) from the theoretical perspective. While this approach does not attack the problem of projection directly (associated with missing data, rather than the scope of the case approach), recognition of these problems and the use of bracing theory assists in developing the use of the case study from a "journalistic" style into a more positivistic approach. This is identified by Bailey (1992:51) as consisting of generalisability (allowing for the theory to be applied outside of the case itself), transferability (the
findings can be applied to similar cases), and replicability (the study can be repeated by other researchers with a high likelihood of coming to the same conclusions).

**Rhodes's Research Methodology**

This section introduces the research methodology applied by Rhodes's approach to the case analysis. To examine the role of policy-making networks in the system of governance, Rhodes uses three research methods (correspondence: 11/8/97): archival research (data gathering to establish the background of the case study), formal network analysis (to provide a sampling frame and conceptual map of the network), and elite interviews and interlocking analysis (completing the research data collection and including additional interviews through snowball sampling). Overall, while Rhodes's theory of governance is conceptually complex, he relies on the interview method as the foundation of data gathering based on sampling drawn from either formal network analysis, or via referential methods. In examining these methods we can see that Rhodes's methodology is based on a number of factors: First, implicitly, the time scale for case analysis is long, looking to identify change through the incorporation of multiple policy implementation / reformulation cycles; Second, the approach is based around the identification of key actors (the policy network) which are seen to have longevity in the political system.

For Rhodes, policy networks are stabilising structures concerned with maintaining the status quo (constraining network membership and looking to cement their position as "insider" organisations) and manage change favourably for their members' interests. While players may change at the micro (individual) level within member organisations, this may not dramatically affect the nature and structure of the policy network itself. The advantage of the long-term basis for analysis lies in the focus on discrete issues or changes that may occur in relation to the overall history of the network. An illustration of this can be seen in Mills use of Rhodes's approach to study the politics and food and nutrition (1992). In this study Mills identified the push for government action on the poor quality of the English diet as a substantial change to the nature of the relationship within a relatively closed and insular policy community that had surrounded the food production industry for forty years. This demonstrates that, while on the one hand a long-term analysis is important to identify the nature, key goals, and appreciative system components of the network under study, the approach does not preclude a focus on points of conflict that may occur (issues), or the arrival of new interests within the policy area (network change).

**Rhodes's Sampling Methods**

In identifying members of the focal point of analysis (the network) Rhodes uses either, or both, of two sampling methods: formal network analysis and referral sampling. Formal network analysis allows for the expansive study of interrelationships and exchanges between individuals and organisations in a systematic and codifiable manner (Knoke and Kuklinskii, 1982). The approach requires the researcher to specify the parameters for study (the "rules of inclusion"), graphically illustrate the interaction between different nodes, and highlight the relative level of importance of various network components.

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100 It is important to determine, in advance, the rules of inclusion so that frivolous or unimportant nodes and connections need not be included. For example, in an office, a gopher (a message / beverage carrier) may have a high frequency of interaction with decision makers, but not have relevance in the decision-making process of the organisation. Thus, the presence of interactions does not necessarily imply that there is an important connection there.

101 A node is an individual or some aggregate which represents one point within the network. This point is able to interact with other nodes and can establish some form of relationship with them. Knoke and Kuklinskii (1982) outline a number of different forms of interaction that may occur: Transaction, communication, boundary penetration, instrumental, sentiment,
via their position within the system (the number of connections they have with other nodes and the relative strength/frequency of these connections). Rhodes's use of formal network analysis serves to provide a method of identifying key individuals as potential interview subjects. However, he remains "unsatisfied" with the approach, possibly because of the informal nature of the contacts networks focus on. Rhodes's approach is essential based on a de-emphasis of formal institutional-orientations. To explore of policy making and policy networks, therefore, Rhodes seeks out a diverse collection of individuals and organisations that form a specific "clique" in regards to the formation of policy in specific areas. Given his view of the complexity of the policy-making process, the value of simple methods of developing sampling frames (constitutionalism, organisational charts, etc.) is limited, because many of the personalities involved in the process may not be overtly involved in the process of policy making (through hierarchical authority that is exercised obliquely), or can evade scrutiny as members of formal networks (such as those utilising informational resources as part of resource exchange). Thus, in casting aside the nominalist approach of developing a sampling frame, Rhodes is forced to construct a tool for the assessment of who is and is not likely to be a member of the policy making network by identifying resource-exchange relationships and the pattern of personal interactions between elites (snowball sampling based on reputation).

In looking beyond formal network analysis, we can see that reputational methods of sampling are not new. Many of the classic community power studies used the reputational approach to generate a lists of social and political elites. In *Who Governs?* Dahl used an elite social gathering for his assessment of the first families among New Haven, and Hunter (1953) depended entirely on reputation and referral in his power study of Atlanta. However, it is important to note the criticisms levelled at the approach: First, reputation has been seen as failing to determine individuals of influence, instead focusing on individuals of perceived influence. This distinction is important, especially where the issue is power and the outcomes of political decision making and group intermediation (Stopher and Meyburg, 1979:21–43). Reputational sampling is seen as specifically unhelpful in determining where power is exercised away from public scrutiny, or where the players are hidden beneath an organisational or bureaucratic mask; Second, boundary setting is a problem in the approach (Laumann, et al., 1989:65–7). Use of the term “snowball” can be appropriate where the lines of interconnection spread well beyond the researcher's capacity to undertake practical research. These criticisms have reduced the use of this form of sampling method in political analysis, however, Ricci (1971:89–91) argues that the reputational approach has value where the researcher was able to cross-check elite lists through multiple referrals or via a combined archival/referral method. Thus, the reputational approach provides the researcher with a basis for discriminating who should or should not be involved in the study, and is less

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102 However, Neuman (1994:48) sees network analysis as a structuralist approach, in that, a network is a "set of interconnected assumptions, concepts, and relationships". As networks are sequences of connections that can be charted out (codified) network analysis can be seen as an approach aimed at developing a structure for the relationships between groups and individuals. In the case of Rhodes, we have identified a difference between institutionalist structuralism (formal analysis of constitutionally-derived organisational structures such as parliament, the bureaucracy, etc.) and network structuralism (relationships within self-constructed networks).

103 Laumann, et al. (1989) sees this as an arbitrary method of setting the frame's perimeters. This approach is self-conscious and limited by the level of information available to the researcher.
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dissimissive of local opinion than other approaches\textsuperscript{104}. Rather than discarding the views of local experts, it accepts their value in the research process. As Rhodes's approach is dependent upon interviews of those individuals who will be identified with this method, it is possible for the researcher to continue to validate the sampling frame during the process of research.

**Elite Interviewing**

Identified via either sampling method, elite interviews form the basis of Rhodes's data-gathering process. Rhodes uses interviewing to enrich the general archival data of the case study. It can be used to indicate the nature of inter-personal and inter-organisational relationships within the policy network, to gather data about organisational goals and objectives (the appreciative system), assess the deployment of strategies, and explore the development of exchange relationships. Interview data allows Rhodes, therefore, to present the story of the case based on information provided by sampled network members and "policy watchers". Because of the detail required for case analysis and the social considerations of elite interviewing (the expectation of personalised interviewing rather than interview surveying, etc.), elite interviewing tends to utilise semi-structured, in-depth interviewing. This method is defined by Neuman (1994:246) as "a social relationship ... a short-term, secondary social interaction between two strangers with the explicit purpose of one person obtaining specific information from the other". By its nature, social science lends itself to qualitative approaches, where the investigator essentially becomes the instrument of the research methodology. Interviewing, therefore, is a highly personal process where meanings are created through personal interaction.

The value of the interview method is directly related to the type of data sought by the social researcher (McCracken, 1985): information about personal interactions, evaluations of process, and descriptions of events. The method has wide application within the social sciences (Holstein and Gubrium, 1995), and is adapted and modified for use in many studies (from exploratory interviews, to research based on interviews as the primary research tool and a combination of the two). This is because interviewing can provide the researcher with flexibility in data gathering, adjusting the research tool to meet the researcher's and / or their respondents' needs, and to probe areas of interest during the discussion. However, while interviewing provides a number of advantages to the researcher, the method also has it's limitations: First, it is time consuming and expensive. As interviewing is a skill that requires training and practice to develop, it is costly in terms of the time required to secure an individuals co-operation, preparation, and the interpretation / transcription of notes of lengthy tapes (Hammer and Wildavsky, 1989:70–1). Second, interviewing is limited by the personal nature of the method. The researcher must physically face their subject and ask questions that can be personal, redundant, and / or impertinent. The researcher must act as a filter, cross checking various responses on the same issue to establish what will be later presented as "fact". Therefore, because the interviewer becomes the instrument of the research, the method precludes the codification of a subjects responses in manner directly comparable to that of other interviewees (interviews are unique and therefore lack the replicability of pure positivist research). Finally, it is based on personal memory and interpretation and is possibly subject to missing data errors, mistakes, and misrepresentation that must be countered through cross varification of responses.

**A Summary**

While Rhodes's model of governance is complex, his research methodology relies mainly on the use of interviews to construct a narrative of the case based on key

\textsuperscript{104}The basis for the reputational approach lies in the fact that it assumes that persons involved in the area under study have some specialised knowledge about what has occurred and who is more likely to have influenced events.
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theoretical elements outlined in his approach (policy networks, resource-exchange, etc.). Overall, while the interview method is valuable in getting the type of data needed developing a story of the case (detailed information on a specific area of investigation), the overall problems of the approach are associated with the sampling method used (formalisation for network analysis and potential respondent exclusion for reputational sampling), and the relative qualities of the interviewer in the way they engage in the process of data collection.

**Sabatier’s Research Methodology**

While Rhodes's methodology is not explicitly articulated in his published work and must be determined with a degree of deduction, Sabatier and Jenkins-Smith (1993) have published a detailed overview of their preferred research methodology for investigating the Advocacy Coalition Framework (ACF). While the ACF has been converted into a research methodology in the same manner as Rhodes's methodology (with an emphasis on the development of a detailed case study through archival and interview research; Mawhinney, Brown and Stewart, Munro, and Barke in Sabatier and Jenkins-Smith, 1993; Lertzman, et al., 1996; Ellison, 1998), Sabatier's preferred approach is explicit, and codifiable, and is therefore highly replicable as well as transferable. In examining the ACF in relation to the case study, Sabatier's preferred empirical methodology has been employed and is detailed in this section.

**An Overview**

In the framework, Sabatier's recognition of the importance of longer time frames for analysis (he specifies ten years or greater) is explicitly supported by his research methodology. Sabatier uses two methods to investigate the ACF: content analysis of documentary material sourced over the life of the case study and cluster analysis based on data sets generated from this material. What he seeks to achieve with these approaches is the evaluation of the belief systems of subsystem members (groups and individuals) for classification into competing advocacy coalitions. To undertake this clustering, Sabatier uses his theoretical conception of belief systems (broken into three levels, or intensities and generalisable levels, of belief) to construct coding frames based upon his case study material. The data itself is drawn from testimony material (transcripts and submission papers to Congressional Committees) and public documents (policy statements and general organisational papers) produced by policy subsystem members. To streamline the sampling from a wide range of groups and individuals involved in these hearings, Sabatier utilised material from participants who were consistently engaged in the policy subsystem (over periods of at least two consecutive years) to analyse belief systems using his coding frames.

Sabatier's use of coding frames for analysis allows documentary sources to be formed into data sets and compared with other groups (to show their relative similarities or differences) or over time (to show changes to the belief system of the group or individual). In producing these data sets, the researcher can use multivariate analysis to show the relative closeness or otherwise of groups involved in the policy debate based on their stated aims, values, and policy preferences. This information is then presented in the form of dendrograms, or a graphic ordering of groups based on their relative closeness on a single continuum. Additionally, using this method allows a number of researchers to be employed in the coding process (especially where a large amount of material must be analysed), and therefore permits the researcher to use

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105 Sabatier sees that the development of the case material can provide information about areas of belief difference between competing organisations and players in the policy debate, which can serve as the basis for development of the coding frame to be used for the content analysis.

106 As Sabatier sees policy as an extension of values (as either explicit or implicit causal theory underlying these positions), these elements are somewhat inter-related, with lower level beliefs seen as indicators of more deeply held values.
intercoder reliability tests\textsuperscript{107} to examine the overall objectivity of the data collection method within the limits of the abstract form of the research approach (the value of these tests being limited to the closeness of the coding instruments to causal factors in the study\textsuperscript{108}; Ryan, 1999:320). In presenting information developed from this method, advocacy coalitions can be identified, and hypotheses relating to their relative stability over time tested, through comparison with later data sets.

**Multivariate Clustering Based on Content Analysis**

This section reviews the research methods utilised by the ACF. These methods are well established in the social sciences, however, Sabatier utilises them in a relatively unique manner for his research approach (the evaluation of belief systems from existing documentary sources).

*(I) Content Analysis*

While most research that employs the evaluation of messages can be defined as “content analysis”, within the social sciences the term is most commonly used to refer to the scientific study of communicated information. This approach—utilised in social research for more than one hundred years—is applied to content regardless of its form (voice, image, written) or the media channel employed (print, television, radio, etc.) to convey the message. Essentially it is based on the statistical or numerical abstraction of messages (Rapoport, 1969:24). What this means is that, as a research methodology, content analysis is based on the study of one part of the chain of communication and therefore separates intent, content, effect, and response (Barcus, 1959:7) into disconnected elements for possible study. While the method contains a wide range of data collection tools (coding frames, computer analysis, score sheets, panel surveys) and analytical theory (from analysis based on standard communication theory\textsuperscript{109} to relative importance measures\textsuperscript{110}), the overall approach is based on the sampling of documentary sources, selection of elements within them, and the measurement and interpretation of these elements by the researcher (Budd, et al., 1967:33–5). The advantages of this research method lies in the availability and reliability of data sources, especially for longitudinal studies. Documents provide unchanging records of past events, and, within the timeframe important for the ACF, are likely to be preserved in some form (hardcopy, microfiche, tape backup). Because of its “scientific” underpinnings the method has a high degree of replicability and transferability between cases and can be applied with multiple data sources or coding frames for cross-verification of the data set or its reliability.

\textsuperscript{107}Because of the tendency for missing data errors to emerge in the coding of these policy documents, Sabatier uses an intercoder reliability test that measures: the decision to code and the relative similarity or difference of coding decision.

\textsuperscript{108}Thus, in the natural sciences reliability measures are concerned with the precision and calibration of measurement instrumentation. In the social sciences, where people become the instruments of the research process, these tests measure closeness to the mean—which may or may not be related to the real world phenomena depending on the research design process.

\textsuperscript{109}This is based on the model of communication that uses the sender-receiver conception of communication, which sees communications as a linear process (Krippendorff, 1969:4) based on a number of steps in which the senders meaning (their message) is encoded for sending and decoded by the receiver, as illustrated:

![Communication model diagram](image)

\textsuperscript{110}Where the existence of a communication element is deemed, in itself, to have importance. Examples of this are basic numerical studies of the appearance of message elements in communications, column inch measures for news reporting, etc.; Webb and Roberts, 1969:319–25).
The disadvantages of the method result from the inherently reductionist way in which communication data is quantified and, in utilising quantitative language, can overlook problems of coder subjectivity in the coding of primary materials (Carney: 1972:9-17). Additionally, this method's focus on primary materials, either as an end in itself (to inform the researcher about the nature of the communication or channel) or where the generation of such material is seen as a signifier of the relevance of the issue under study, tends to emphasise data abundance, but only in limited areas. Thus, in Sabatier's use of the method, while public documentation generated from hearings and investigation submission can provide a useful source of information, Holsti (in Axelrod, 1976:42) notes that studies taken during events that rely on documentary sources may also be subject to "data scarcity"—creating missing data problems. This problem can result from a lack of willingness of participants to talk about certain issues or problems (due to social factors), agenda setting by members of the subsystem (constraining the content of the debate), or because of a lack of candour by the participant because of political concerns. Thus, while Sabatier sees congressional hearings as a useful source of material that has a greater propensity to be free of "contextual positioning" (altering the content of the communication because of the forum in which the communication is to occur), because these hearings are conducted by members of the subsystem, it cannot be determined if this communication represents the true opinion of these groups. While these hearing may encourage a more frank articulation of beliefs and values, the data produced from content analysis alone is not able to indicate if the forum is one in which participants engage in "careful" (guarded) or "casual" speech (Labov in Briggs, 1986:18).

(II) Cluster Analysis
Cluster analysis is a research method based on the principles of classification. The approach utilises single or multiple variables to order analytical units into discrete, homogeneous groups ("clusters") based on their relative similarity. The method is useful for researchers wishing to develop typologies, establish conceptual schemes, or in generating and testing hypotheses (Aldenderfer and Blashfield, 1984:7–8). As the clustering approach requires some level of abstraction to reduce population sets into categories based on a limited number of values, the method requires the researcher to engage in a number of activities: the identification of a sample of units to be clustered (using any one of the range of sampling methods); abstraction of operational definitions into measurable variables (the establishment of scales or values on the coding frame); "scoring" or coding unit values against these definitions via some form of measurement (be that in concrete / predetermined values—such as inches, kilograms, etc.—or in abstract measures—such as love, power, etc.); and the choice of graphical display for the clusters (lists, dendrograms, two- or three-dimensional diagrams; Lorr, 1983:12–4).

While the clustering method applied in the social sciences is based on the version used in the natural sciences, the approach has some general and specific advantages and

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111 As members of the policy subsystem, they, presumably, look towards more frank articulation of positions among themselves.
112 For Labov, getting the respondent into "casual" speech mode was the essence of getting an accurate articulation of their true views on a topic. While this is achievable with the interview method (through strategies of engagement with the respondent), for content analysis an assessment of the honesty of the documents is useful in assessing the value of the method, as no corrective action can be taken.
113 Convenience, quota, purposive, snowball, systematic, stratified, or cluster (however, the latter is unlikely to be applied to the approach for fear of redundancy).
114 In doing this the level of abstraction is left to the researcher to determine. Abstraction is based on the need to reduce information, the capacity to measure key variables, and the importance of the scale itself.
limitations that need to be considered. Overall, clustering is useful where a wide number of analytical units or multiple variables need to be analysed and reduced to a form meaningful for the research project. In using clustering for its reductive value, the scientific underpinnings of the method also allow for repetition and application between cases, and the use of formalised coding instruments reduces the potential problem of subjectivity of the researcher. These advantages are moderated by the general problems associated with reductionist research (ensuring that the data gathered and analysed is both a useful measure of the key variables, and that the data sets have internal consistency) and the specific limitations associated with the abstractions required in social science research: ensuring that abstractions are able to be converted into data measures, that these measures are actionable (that they can be identified and measured in empirical research), and that the measures themselves do not conflate variables related to different phenomena (Tryon and Bailey, 1970:12–3). Thus, Sabatier has used his theoretical view of value systems to set the level of abstraction as relatively low (reducing the chance of conflating dissimilar variables), with the various measures on his sampling frames phrased in terms of particular elements of the belief system (i.e., the importance of beauty) or policy elements (i.e., the relative value of a specific program or policy measure). However, as these elements, because of their nature, remain researcher-derived constructs, Likert Scales \textsuperscript{115} are used to measure preferences (either between alternatives, or for or against a proposition).

A Summary

From a basis in the case study approach (focusing on discrete areas within the polity), the ACF is actionalised using a combination of content analysis and cluster analysis, to produce maps of the policy subsystem that illustrate the relative similarity of values among consistent players in the policy process. For Sabatier, this approach is the best way to show the relationship between subsystem members and, by using documentary sources over a longer timeframe than traditional implementation research, shows the impact of change in the policy-making process. In designing this approach, Sabatier sought to use the scientific methods to test hypotheses, supported by his theoretical view of the nature of value systems and the relative interaction of players in the political arena. What is important to remember, however, is that this approach retains the abstraction inherent in the reduction of content to scale data and the assignment of cluster membership based on this data.

Sabatier's and Rhodes's Methodologies Compared

While this chapter has not explicitly critiqued the approaches for reformulation prior to the investigation of the case study (in the same way that Chapter Three presented the two approaches \textit{in vacuo}), this section notes a number of potential problems associated with the approaches. These potential limitations will be considered in the examination of the case and contrast of the two methodologies' results in Part III. In comparing the overall nature of the two research methodologies, we can see that both are based within the scientific paradigm and contain transferable theories and methodologies with a degree of replicability. Where these approaches vary (as detailed in table 4-2) is in their focus on very different components of the political environment and the way that these foci have been converted into research methodologies. Whereas Rhodes has concentrated on the relatively traditional use of interviews to assess the deployment of groups within the policy network, their interests, and resource exchange relationships, Sabatier is concerned with the belief systems of politically-active groups and individuals as the indicator of relationship within the policy subsystem. Thus, while Rhodes's methodology is based on the explicit statements of respondents in formal interviews and

\textsuperscript{115}Numerical scales based on the model: 1. Strongly agree, 2. Agree, 3. Neither agree nor disagree, 4. Disagree, 5. Strongly disagree. These scales are sometimes called summated-rating or additive scales (but only where the scales are used to form a single numerical value for measure against some metascale).
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is therefore limited in terms of replicability, Sabatier's more scientifically-grounded approach is based on the measurement of values as indicators of real world deployment and action.

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<thead>
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<th>Table 4-2: Differences Between Rhodes and Sabatier Research Methodologies</th>
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<td><strong>Focus:</strong></td>
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<td><strong>Level of Abstraction:</strong></td>
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<td><strong>Sampling Method:</strong></td>
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<td><strong>Research Instrument:</strong></td>
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<td><strong>Field work oriented?</strong></td>
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<td><strong>General Approach:</strong></td>
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<td><strong>Data Form:</strong></td>
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<td><strong>Missing Data Errors:</strong></td>
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<td><strong>Data Reliability Errors:</strong></td>
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<td><strong>Data Reliability Tests:</strong></td>
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<td><strong>Replicability Level</strong></td>
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**Potential Limitations of the Approaches**

(I) **Sampling Issues**

Regardless of the complexity of the analytical theory and data collection methodology of the approaches, both Rhodes and Sabatier retain relatively straight-forward sampling methods. While this simplicity is not a problem in itself, questions remain about the value of these sampling methods in assessing the full range of key players in the political processes under study. While Rhodes has attempted the application of formal network analysis for the identification of policy network nodes, this approach has had limited value in his overall methodology and hence his reliance on social sampling through referral. Additionally, Sabatier's method of sampling from congressional hearings would appear to presume that these hearings include the universe of actors\(^{116}\) and leaves the sampling of "sovereigns" open for interpretation. As the two approaches have very different sampling methods, the comparison of the two will be useful in determining which individuals and groups are not included by each approach, and analysis will provide some insight into the importance of any political actors that are not sampled by either approach.

(II) **Assessment of "Individual True Value"**

Because of their emphasis on the positivist approach to research, Rhodes and Sabatier are concerned with establishing the "individual true value" of the subject under consideration. This concept is discussed by Briggs (1986:21–3) who states that the concept of individual true value assumes that an absolute truth exists, and that through studious attempts to reduce bias (research bias or subjectivity, instrument effects, sample bias, etc.) distortions in individual true value can be ascertained and the "truth" gathered. While this approach is subject to substantial general (Jagtenberg, 1983; Gross and Levitt, 1994; Bryant, 1985; Namenwirth, 1986) and specific criticisms and questionings\(^{117}\), the use of cross-verification in Rhodes's methodology and Sabatier's...

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\(^{116}\) This assumption is already violated by Sabatier's inclusion of the concept of "latent" actors as subsystem members.

\(^{117}\) Nagi and Corwin (1972:324) see a legitimacy in different opinions expressed due to their context. For them these opinions, regardless of inconsistency, are legitimate and correct, one
justification of Congressional Committee hearings as limited in the amount of contextual positioning of participants shows their concern with positivistically-motivated bias reduction measures\textsuperscript{118}. However, in Sabatier's approach this assertion is not based on the inclusion of methods of verification, but on acceptance of literature on the difference between public and private modes of communication (Moe, 1980; Goggin, 1984\textsuperscript{119}). Therefore, through comparison of interview and content analysis data, the question of true opinion can be assessed. As Sabatier's approach does not provide explicit measures for assessing the "truth" or otherwise of testimony and hearing material, Rhodes's interview approach will be a useful tool in assessing how "causal" the communication of subsystem members is in parliamentary committee hearings.

### Additional Research Methods Utilised

As an adjunct to the methodologies advocated by Rhodes and Sabatier, two additional research methods have been applied: the use of computerised content analysis of media reporting and online applications of the interview method. These approaches are simply applications of general methods applied by the two research methodologies and, as such, will be briefly reviewed in this section.

#### Computerised Content Analysis

In constructing the case study, the proposition that concern over computer network content was a result of a deliberately engineered "moral panic" (as discussed in Chapter Five) is assessed. In doing so, computerised content analysis of Internet-related media reporting is used to measure the relative frequency of negative press coverage about online pornography, paedophilia, and other criminal activities. Given the existence of archived news reporting in digital form, simple quantitative content analysis based on a dictionary of terms was used to identify the number of negative news stories in a given period, counting articles containing key works and phrases (see Appendix 5.3). As suggested by Holsti (1969:15), the value of this method lies in the use of documentary sources where other evidence or indicators of a phenomena are not available (negative news coverage is identified within the moral panic literature as an indicator of a panic). By using pre-existing digitised sources of information, the application of a coding schema applied based on case research is both simple and quick to undertake. From this approach the output data can be simply presented in a graphical form, based on the view of the importance of frequency as an indicator of significance (Starkweather, 1969:339). While noting the relative ease of the method in producing the media analysis, it is important to consider that computerised content analysis is limited by the literal way in which frequency measures are used. These limitations are due to the fact that the machine has no real understanding of the information it is processing and lacks the capacity to identify variations in word usage, contextual meaning or emotional content\textsuperscript{120}, or resolve ambiguity (Goldhamer, 1969:343). Thus, as the approach has considerable limitations, it remains only one minor research method used in the construction of the case study.

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\textsuperscript{118}As discussed in Chapter Six, Senate Committee hearings and Departmental / Agency investigations are used in the case study as substitutes for the congressional committee system of the United States.

\textsuperscript{119}While Moe saw interest groups as having a strong motivation for consistency in dealing with government agencies (to legitimise their views and access), Goggin was concerned with analysing the extent to which American Presidents tailored their messages in different fora and forms. Goggin argued that "valuative thematic" messages were far more consistent than had previously been postulated and that audience composition was somewhat related to message emphasis, but only in a minor way.

\textsuperscript{120}This problem, however, is more prevalent with transcription where the content of the message is decontextualised from the original form (Mizrach, 1998; Oldfield, 1951:99–101).
Two Online Applications of the Interview Method

A more significant adjunct to the methodology of Rhodes is the application of computer-facilitated-communications technology to his interviewing approach. This addition consists of two distinct variations of the standard interview method: email interviews (a modification of the use of traditional postal interviewing) and realtime interviewing using World Wide Web-based graphical browsing technology. While these two approaches are simply technological adaptations to facilitate a more traditional research approach (in the same way that telephones allowed for a greater capacity for researchers to engage in interviews at a distance\(^{121}\)), this section will explain how the approaches were undertaken and identify their general and specific advantages and limitations.

The two online interview methods provide the researcher with the capacity to engage in low cost research (eliminating telephone charges, travel, and transcription costs / time), over distances, in a manner that reduces the effect of the interviewer on the subject. As the communication is mediated through the computer interface, the use of the technology limits the amount of data that can be collected (due to typing speed, and inability of the researcher to "control" the interview setting\(^{122}\)), and the capacity to use and observe paralinguistic cues\(^{123}\) is limited (regardless of desirability, the approach manufactures distance between the interviewer and respondent; Kahn and Cannel, 1957:208). One consideration needs to be highlighted however, while the two approaches would have sampling limitations in general application (where the method is applied as the sole source of data gathering) because of the limited reach of computers and the Internet (Coomber, 1997; Basánez, 1997:55–7) or the social context of using a computer (to the researcher: Kelle, 1997; or to the respondent: Dexter, 1970:56\(^{124}\)), as a supplementary method these limitations do not apply in the context of this thesis. This is because the approaches were applied where traditional interview methods were unable to reach the individual sampled (because of geographic distance).

(I) Email Interviews

Email interviews are relatively straight forward applications of electronic mail and their use predates the development of World Wide Web (see Myers, 1987, for an example of email interviews using Bulletin Board Systems and Donath, 1996, for analysis of Usenet postings). Rather than interviewing a respondent face-to-face or via the telephone, questions are typed out and sent to the respondent for consideration and reply. The process can be brief or detailed, depending on the needs of the researcher and the willingness of the respondent. However the approach is staggered by the turn-around time of the email system (either because of technological speed, or the regularity of access of the respondent to the computer or email account; Selwyn and Robson, 1998; Christensen, 1999). Overall, the approach lacks the immediacy of the interview method on which it is based (Sudau and Brown, 1984:40–1), but can facilitate detailed communication between the researcher and respondent where other methods cannot be applied.

\(^{121}\)In doing so, as is highlighted in this section, technological modifications to existing research methods reduce limitations of the approach, but introduce different potential biases.

\(^{122}\)As noted by Hammer and Wildavsky, controlling the interview environment can be useful in observing and evaluating the work or social environment of the respondent.

\(^{123}\)As Slaughter (1985:122–3) notes, this is not just an effect on the quality of the data gathered, spoken and written forms are different, both in terms of their structure (textual communication is more ordered) and in the content of the message (as Slaughter sees written communication as the "medium of isolated individuals”).

\(^{124}\)Refusal by the respondent to engage with the computer because of a lack of technological familiarity, distaste for the impersonal form, limited literacy / typing skills, physical disability (Couper and Rowe, 1996).
(II) Realtime Interviews Via the World Wide Web

The second online version of interviewing employed is a more novel application of technology to the interview method: using the World Wide Web (WWW) to facilitate interviews in real time. While some sociological research has been undertaken with standard chat facilities offered by Internet Service Providers (see Smith's 1998 study of the WELL\textsuperscript{125}), and some American companies have developed specific WWW technology to undertake market research in "virtual focus groups"\textsuperscript{126}, this approach is specific in the way it targets key "expert" respondents, rather than market segments or pre-constituted user groups (with the associated sampling limitations, as discussed). This realtime interview method required the development of Hypertext Markup Language (HTML) pages and PHP/FI scripting to create a private online chat facility on the Australian National University web server\textsuperscript{127}. This approach was developed in 1998 and subjected to a small pilot study for testing and development before being used for the thesis research (for details of the pilot study, see Appendix 4.1). What this technology allows for is realtime text-based discussion between the interviewer and respondent using a number of web pages (illustrated in Appendix 4.2) to facilitate the discussion. As displayed in figure 4-1, text is entered in the lower half of the computer screen (the text entry point), when the "send" button is clicked the message is updated on the central message frame which is the source of the transcript and seen by both parties.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{image}
\caption{Figure 4-1: Key Elements of Interviewer and Respondent's WWW Interfaces}
\end{figure}

Compared to the email interview, the WWW interview method simulates more closely the interview approach, in that the interviewer and respondent engage in realtime communication\textsuperscript{128}. Because the approach shows a higher degree of demonstrated attention by the researcher to the respondent (Weiss, 1994:65–6), and allows for greater

\textsuperscript{125}Smith used the WELL's (the Whole Earth 'Lectronic Link) standard chat facility to interview WELL members for his sociological study.

\textsuperscript{126}Strategic Focus Inc, Insights Online, CLT Research Associates, Common Knowledge, Cyberdialoge, Greenfield Online, and the Xerox Business Research Group.

\textsuperscript{127}This software was written by Sam Hinton of the ANU, for a detailed technical discussion and source code, and a wider discussion of the general method, see Chen and Hinton, 1999. Essentially the technology is an example of "client-pull" that allowed the researcher to set up the software and minimise the technical effort of the respondent.

\textsuperscript{128}However, because of the nature of the WWW-based interface, the interviews are conducted in "rounds" rather than the relatively free-form nature of conversations. Thus, cutting in and redirection elements of the discussion are lost in the WWW approach.
spontenatity (Kvale, 1996:145; Zito, 1984:55–6), the inline interview has a number of advantages over the email approach. Where the email interview can be significantly broken up over a long period of time, the WWW interview process is undertaken in a discrete period of time, and allows a greater degree of dynamic interaction between the participants. However, as was identified in the pilot study, as the basis of the interview approach, typing the messages out (especially when knowing that another person is waiting for them to arrive) limits the amount of information that can be practically communicated. Thus, the approach is valuable only as an adjunct to more detailed interview approaches, where the level of information needed to be conveyed is relatively small, or where the respondents are likely to have a high degree of familiarity with Internet culture (chat rooms, Internet Relay Chat, etc.) or typing skills.\footnote{A skilled typist could produce two or three times the material produced by the case study subjects.}

**Conclusion**

This chapter introduced and explained the research methodologies used to actionalise the theories presented by Rhodes and Sabatier. Overall, the two approaches reflect their theoretical differences of their designers and, as such, will allow for a degree of comparison and cross-verification to assess their value in the Australian context. While these differences remain, however, comparison is possible because of their focus on the scientific method for research. While the intent of this thesis is to apply the two approaches faithfully to the aims of their designers, a number of small variations are included, either because of local conditions (substitution of Congressional Committees for Parliamentary Committees and Departmental Consultation processes for Sabatier), or because of practical limitations associated with access to key respondents (introducing additional methods for interviewing for Rhodes approaches). This chapter marks the conclusion of Part I, the next part of the thesis presents the case study and its background, which forms the basis for utilising these methodologies for evaluation and comparison in Part III.
Case
Chapter Five
Computer Network Content Regulation in Australia*

Introduction
The Backdrop: Censorship in Australia
Regulation Defined
Rationales Behind Media Regulation in Australia
Censorship and Content Regulation
Censorship in Australia
Recent Trends in Censorship
A Summation: Control and Distance

The Case: Online Censorship in Australia
Defining Computer Networks
Bulletin Board System Regulation
The Arrival of the Internet in Australia
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The Phoney War: The National Framework for Online Content Regulation
A Legislative Muddle: The Bill, the Backlash, and the Backdown

Conclusion

Introduction
This chapter provides the case material used as the basis of analysis in Part III. As outlined in Chapter Three, in the work of both Rhodes and, more explicitly, in Sabatier's Framework, individual cases are situated within the wider political, social, and economic context in which policy is made. For Sabatier this can be seen in the focus on externalities from the policy subsystem, which feature prominently in figure 3-1, while for Rhodes this emphasis can be found in the system-wide "rules of the game" and policy network-specific operating procedures and culture in which "policy begets politics" and vice versa. The Chapter is divided into two sections. The first examines the rationale, history, and shape of Australia's overall censorship regime for film, television, video, computer games, book, magazine, and music. This situates the case study within its wider policy context, and demonstrates how many of the decision-making structures and policy options discussed in the second section are a result of wider processes concerned with traditional media regulation. Thus, in outlining the case study, the second section of this chapter examines the history of the policy debate surrounding the censorship of bulletin board systems and the Internet. This second half summarises the case study, initially by presenting a range of competing and essentially contested definitions of the medium, then by outlining the first attempts at regulating online content, to the final passage of the Broadcasting Services Amendment (Online Services) Act 1999 some twelve years later. What this final section demonstrates is the complex interplay of politically-active groups in the policy debate, and a wide range of options that were explored before the co-regulatory approach was adopted by the Government and Parliament.

The Backdrop: Censorship in Australia
This section provides an overview of Australia's traditional ("offline") censorship regime. Starting from a working definition of regulation, the rationales behind censorship are presented to explain government intervention in this area of public and private life (the

* Elements of this chapter were published in Chen, P, 1999, "Australia's Internet Censorship Regime: History, Form and Future", Macarthur Law Review, 3, December.
consumption of information). This section shows that censorship in Australia has had a long and complex history, from the initial establishment of laws under the Colonial parliaments, to those by the new federated nation. This discussion leads to the development of the institutional structures for content regulation under the Commonwealth government that would eventually become the core elements of today's process of censorship: the Standing Committee of Attorneys-General censorship subcommittee; the Office of Film and Literature Classification; and various regulatory agencies (such as the Australian Broadcasting Authority). Finally, running parallel to the case itself, general recent trends in censorship are presented, showing an increasing level of censorship in Australia following the election of the Howard Coalition Government. This, however, remains contained within the scope of the intergovernmental policy-making processes and structures of implementation for content control.

**Regulation Defined**

Regulation is a broad term commonly used to describe the act of control or inducement applied against an individual or organisation / group in society. In essence, regulation, the control, modification or adjustment by rule or restriction (Bay Books, 1976) is the meat of government activity, the essential output of political institutions through the conveyance of delegated authority to government agencies from legislation (Jaensch and Teichmann, 1988:178). This view is supported by Gow and Maher (1994:113–4) who define regulation as:

*the intention of regulation to influence private behaviour, and the means of achieving this through constraint or inducement. In its widest sense regulation can embrace almost all actions of a government.*

Gow and Maher go on to provide the reader with an "elementary typology" in which regulatory examples can be placed: vertical regulation, applied to the structure and performance of specific industries or markets; horizontal regulation, the enforcement of society-wide "community standards"; and, functional regulation, which covers remaining small-scale regulations such as local by-laws and other specific rules and ordinances.

Regardless of the motivation for regulation (such as market failure, the provision of "public goods", the protection of the public interest, social engineering, rent seeking, etc.), governments' "ownership" of the right to regulate is associated with the democratic concept of governmental legitimacy (Mayo, 1960). Simply stated, governments, having been elected by the people, have the right to impose restrictions on their behaviour provided that the aims of the restrictions are beneficial (either to the people as a whole, or for some specific group that needs to be protected). Ignoring the complexities associated with examining fully the theoretical underpinning of democratic theory, it is safe to argue that the concept of government's "right to govern" is part of the political culture130 of Australia, albeit, moderated by institutional checks (blockages, some would call them), such as the Senate, the rule of law, and the federal division, and influenced by the developing nature of Australian pluralism (Warhurst, 1993). It is important to highlight, as is eluded in Gow and Maher's definition, that in identifying regulation it is intention, rather than actual action, that is being identified. This is related to implementation theory's focus on the distinction between political outputs (policy documents, political pronouncements, etc.) and the outcomes of agency action (policy implementation). Distinction between regulation and policy, needs to be made, however,

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130It is important to note that Rowse (1978) has presented a critique of political culture, arguing that many of the values (such as pragmatism and utilitarianism) fail under scrutiny, and that the concept has historically been used to paper over the underlying racism and sexism of Australia. While this critique may be true of the views presented by proponents of Australia's political culture, the concept, as defined by writers like Hughes (1973), is still useful in attempting to outline the commonly held values that constrain political activity. What is important to note is that political culture is a perception of the political process, rather than a reflection of reality.
where implementation fails to meet the stated aims of policy (because of the implementation gap problem examined in Chapter Two), or due to the potential for some policy to be content free (Ham and Hill, 1993:15).

**Rationales Behind Media Regulation in Australia**

Regardless of the variety of form and content, the regulation of communications technology in Australia has had a number of key consistent motivations: First, as a foundation point, Australian governments of all persuasions have been interested in the question of supply. Communications policy was, and continues to be, concerned with having a system of communications available to Australians. While members of the first fleet were concerned with having any form of communications available because of their difficulties producing sufficient food for the first European arrivals, over time this concern has changed from the expansion of infrastructure to the establishment of service equity between Australians, regardless of location or financial station; Second, where the necessary infrastructure for communications technology is available, but suffers from some form of scarcity (environmental, technical, or commercial / economic), governments have sought to regulate supply of the limited capacity (through mechanisms like licensing, public ownership monopolisation, service guarantees, and subsidy); and, Third, as communications have become increasingly reliable, assured parts of modern life—and especially with the advent of mass media such as book printing / increasing literacy (especially "paperback" books for the masses), cinema, and electrical communication—the question of censorship of the communicated content has arisen.

Thus, while this section is concerned with examining the development and changes to Australia's overall system of government censorship, it is important to remember that censorship debates are themselves part of the wider political debate surrounding infrastructure and market development and control (for a discussion of the history of these policy trends, see Appendix 5.1). For example, while writers like Welenski (1988:70) see constrictive market forces and "technological determinism" as influences on the development of media markets in Australia, they also identify regulation as having a key impact in shaping the development of media and communications in this country. While this government intervention is focused on issues such as technical standard-making, scarcity, and intervention in imperfect markets and "natural monopolies", Mayer (1980:3) observes that issues of scarcity are not simple motivators for this governmental attention. He observed that, within broadcasting (in which available electromagnetic spectrum has been consistently increasing over the last quarter century) regulation has increased rather than decreased with technological developments. As Albon and Papandrea (1998:2) observe, the initial rationale for broadcasting control in Australia (based on the British model) was not simply concerned with issues of technological control, but the view that the media was an important influence on the public and required a "social responsibility model" applied (regulated) by government.

We can see that where media that has a wide reach (such as television), high impact (such as books or the introduction of cinema), or is accessible to easy scrutiny (such as by telegraph relay operators), the content of communications has fallen under the eye of government regulators. This is because communications media are identified by governments as having an impact on public opinion and morality (DeFleur, 1988). This view, as articulated by Forward (1977:138), identifies important media channels

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131 Technological determinism sees the development of technologies as based on competition of competing systems in the market. Success of one technology over another is not simply based on its technical qualities, but also the market acceptance of the technology as a prevailing standard. A "classic" example of this is the rivalry between VHS and Beta videocassette recorders, with VHS eventually dominating the market at the expense of the Beta platform.
successive Australian governments have seen as important influences on public opinion. Media impacts upon the public's opinion through the surveillance and reporting of current events (Graber, 1984:4–27) and the moral and political socialisation of community members (MacCoby, 1964; Dawson and Prewitt, 1969). However, accuracy of this "high impact" model of communications effect remains in debate. Some writers supporting this view advocate a direct relationship between media reporting and public opinion\(^{132}\) (McQuail, 1977:22; Bauer and Bauer, 1960), while others advocate a more nominal view, with media usage as part of the overall information seeking process of predisposed individuals (Lazarsfeld, Berelson, and Gaudet, 1948; Hovland, Lamdsaine, and Sleffied, 1948; Bandura, Ross and Ross, 1963; Klapper, 1966), the "attentive minority"\(^{133}\) (Tichemor, Donohue, and Olien, 1970) or opinion leaders\(^{134}\) (Katz and Lazarsfeld, 1955), with limited direct impact on overall public opinion. On the other hand, a more recent school of thought sees media as more influential, but in an indirect manner, arguing that a pluralised media, by nature of its largely commercially-oriented motivations, reinforce dominant ideological views (Hall, 1977) or serves to set the agenda of public debate (McCoombs and Shaw, 1976; Zucker, 1978; Blood, 1982:3–12). The actual impact of media and communications on public opinion and private values may be a complex relationship drawing upon all these factors situationally. However, the value of these models is a moot point as the view that media is an important influence on public opinion is a motivation for government regulation, with many Australian authors (Rosenbloom, 1976; Weller and Grattan, 1981:153–4; Solomon,1986:150–1; Gruen and Grattan, 1993:84; Mayer, 1994) noting that Australian governments are proactive in managing their media relations and media portrayals of government action. In essence, media regulation can be seen as a fundamentally political process, that is, a point of conflict and debate within our society and one subject to formal and informal attempts at regulation, influence, and control.

While the establishment of media in Australia has largely been contained within industry-specific regulation and the use of government monopoly power and licensing systems, these regulatory tools have not been introduced simply to provide governments with a means of control of the development of infrastructure and service delivery in Australia. One of the difficulties with any industry policy, and one that is exacerbated with the importance that media is perceived to have on public opinion and behaviour, is that industry regulation is seldom explicitly contained to the issue of industry development and competitiveness. Media policy, has always been closely tied to censorship (or content regulation), creating illogicalities when perceiving the policy simply from a marketplace regulation perspective. Censorship in Australia has a long history, and, unlike the strict industry-specific policy approach of media markets, is based on the establishment or maintenance of community-wide standards. As seen in our definition and typology of regulation, this form of regulation, across a wide spectrum of similar and dissimilar industries, has relied on horizontal regulation: a collection of dissimilar regulatory tools aimed at the enforcement of a singular goal.

**Censorship and Content Regulation**

Censorship, the practice of banning or removing content from a publication\(^{135}\) that may be deemed obscene or objectionable (The Australian Compact Collins Dictionary, 1995), while pertaining to any act (formal or otherwise) of altering content, is largely used to describe the official act of governmental regulation of content in any form. Like other

\(^{132}\) Sometimes referred to as the "hypodermic needle" model: that "the media" simply infuse the public with opinion directly.

\(^{133}\) The "knowledge gap" view, where information communicated by media is more effectively used by certain sections of the community, while others remain uninformed.

\(^{134}\) The "Two Step Flow" model of communications.

\(^{135}\) The wider definition extending to any artefact, utterance or expressive activity.
forms of regulation, censorship is a limitation on individual freedoms (the freedom of expression and the freedom to read, see, and hear whatever one wishes) by legal authority. Because this limitation is placed on one of the key implied political freedoms of a liberal-democratic state, the act of censorship has always been a contentious issue, irrespective of the content censored, or the motivations behind the act. The concept of freedom of speech is neatly outlined by John Mill in *On Liberty*. Mill’s view of the principle of freedom of communication centred around the free expression of ideas and the right to have one’s ideas contested (1992). This position is based on the concept of the truths illusiveness, and argues: as no individual or organisation could claim an absolute ability to identify the truthfulness or otherwise of any statement, the development of ideas can only come from free debate. Additionally, because unpopular ideas and views can be offensive (either because of the content of the idea or the form in which it is put), the state should not be able to suppress material based on the manner or form in which it is presented. According to Mill government, therefore, can neither suppress an idea because of its unpopularity, its falsehood, or its likeliness to offend. The search for truth can only be facilitated by total freedom of communication.

Opposed to the "pure" view of Mill, but within the context of liberal democratic rights to free expression, two general rationales for censorship are proposed. Both of these views stem from the precept that censorship is desirable where the material in question is by nature damaging (either socially or to individuals). The most broadly accepted version of this view is that material that is made using illegal methods, such as through the violation of copyright, or in the case of child pornography, should not be afforded legitimacy under the right of freedom of speech. With regards to pornography that is not made illegally (where censorship in liberal democracies is most commonly focused), one view for censorship is posited by feminist writers who see the issue as essentially about the suppression of violence. Dworkin (1991:58–9), for example, defines pornography as essentially about the subordination of women to men. As subordination is social violence that promotes physical and emotional violence, censorship of pornography is desirable because it polices against violence by one section of society against another. In this context the classification of pornography as "speech" is the legalisation of violence against women. Freedom of expression is irrelevant in this context, or rather, pornography can be seen to silence women in a male-oriented society. The second, and more commonly presented, view is presented from religious leaders in countries like the United States and Australia, from interpretation of the moral pronouncements of the Bible. Parker (1991:183–8), for example, identifies pornography as a danger to the Christian view of marriage, an institution given by god to enrich both men and women. Nudity outside marriage136 is only for "the godless and the immature" and must be countered if the moral and social fabric of society is to be preserved. Ironically, Weaver (1991:191) notes the fundamental similarities between values of writers like Dworkin, and religious opponents to pornography like Parker, that is: the argument that pornography can be acceptably excluded from the protection of free speech because of its damaging effects on individuals and society137.

In practice, therefore, societies that claim the status of liberal democracies have always used and maintain some form of censorship system. Political conflict and debate has historically, as in Australia, been focused around what level of censorship was required. In this debate a number of issues emerge: First, when discussing the concept of censorship as a counterbalance to that of free speech, the question of what constitutes "speech" is ever present. Where the United States, through the stated constitutional

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136Marriage in this context is a "cover" for the nude form.
137For example, LaHaye's (1991:177–82) pamphlet, *The Mental Poison*, contains many of the same dire warnings about sexual violence as the view of Dworkin's work on female oppression, but within a conservative interpretation of the role of traditional family values as advocated by contemporary mainstream Christianity.
guarantee of free speech, has interpreted this broadly (regardless of form and truthfulness\(^{138}\)), regardless of media and, as seen in the 1988 case of \textit{Flint v. Falwell}, regardless of the tastelessness of the content\(^{139}\). Pornographic material is similarly protected constitutionally, however the distribution of this material is limited depending on local laws and regulations. In Britain, on the other hand, the lack of an underlying constitutional document has prevented the clear establishment of unambiguous protection of media in any form. Holmes (1986:44) argues that cultural values in the Britain place the Government above the press and in a willing position to use legal sanctions against media organisations and journalists. In terms of the control of pornography, Thompson (1994:2–4) states that laws against "obscene"\(^{140}\) materials through a variety of laws and agencies (the \textit{Obscene Publications Act}, \textit{Video Recordings Act}, \textit{Customs Consolidation Act}, \textit{Post Office Act} and \textit{Child Protection Act}) effectively ban the importation and distribution of "hard core" explicit sexual material, with some limitations on locally produced material relating to constraints and force (such as spanking) and same-sex pornography.

\textbf{Censorship in Australia}

While the debate over censorship can be identified in terms of a common acceptance of an appropriate level of government control of communicated content rather than any unbending adherence to Mill's views of the importance of free communication, censorship in Australia has mirrored the rather restrictive view of Great Britain\(^{141}\), rather than the more permissive position advocated by the United States constitutional amendments and courts. While the High Court of Australia has established an implied right of free political speech in the Constitution\(^{142}\), the general right of free speech does not exist in Australia (Healey, 1997:1). In essence, censorship in Australia has been based (and remains), the antithesis of Mill's view. Where successive governments have introduced, repealed, strengthened, and reduced censorship standards in Australia, the underpinning justification of our media content regulations has been, and remains, the defence (or positive encouragement of) "community standards"\(^{143}\). Since Federation, this aim has been achieved using a wide range of legal, economic, and co-regulatory approaches. However, the biggest changes to the regulatory landscape have been the shift away from direct government intervention to a more subtle model which has marginally reduced governmental power, but significantly decreased the visibility of censorship activities. This change has been ameliorated in recent years with the

\(^{138}\)For example, in \textit{Near v. Minnesota}, the lack of truthfulness of a publication was not grounds for its censorship. Where a publication prints a mistruth, it is constitutionally protected to do so. Should the target of the mistruth be aggrieved, they are free to pursue this through legal action (US Supreme Court, 1931).

\(^{139}\)In this case, Jerry Falwell was deemed to be a "public figure" and the publisher was free to publish his piece irrespective of the emotional distress caused. Like \textit{Near} this case was based on what could be described as a "worst case" argument by the petitioner, but the argument was upheld by the Supreme Court because of its comparative nature with other, less offensive, forms of political cartoon (US Supreme Court, 1988).

\(^{140}\)Thompson notes the difference between the use of the terms "soft core" and "hard core" between Britain and the United States. In the British context, "soft core" generally refers to nudity and similar images.

\(^{141}\)Stemming from the offence of \textit{Scandalum Magnatum}, of defaming great men, in the year 1275.

\(^{142}\)A right that Pullan (1993) notes must be tested on a case-by-case basis, without the degree of certainty afforded by the US constitution.

\(^{143}\)Mill would argue that, while a wider community view could be ascertained, the rightfulness of enforcing this view through the suppression of expression is against the core principle of democratic debate. Regardless of the diminutiveness of the minority, there exists no right for the majority to suppress their view.
Australia's Online Censorship Regime

election of a socially conservative Coalition government that has attempted to raise the
general level of censorship within the boundaries of a devolved system.

Because of limited constitutional power of the national government to cover the range of
publications and activities that attract content regulation, the present system of
censorship for printed publications, films and (included in the early 1990s) computer
games is based on a co-operative agreement between the Federal Government, States,
and Territories (Parliament of Australia 1988:11). Through the Office of Film and
Literature Classification (OFLC), the Federal Government classifies material, while the
States and Territories determine what level of classification is acceptable for sale or
distribution within their jurisdiction. This practice was adopted in 1984, with the
decision to shift the rationale on which Australian censorship was based from that of
blanket prohibition, to classification of materials for the mature (at least physically
mature) individual to decide upon for themselves (Australian Law Reform Commission,
1991:3) free from unsolicited material that may offend them. This alteration was the
result of social change (during the 1960s and 1970s the regulation of literature and film
had softened considerably) and a decision by Federal Ministers to distance
themselves from active intervention in the viewing and reading habits of Australians
(Coleman, 1974:24–6). The process of censorship itself is complex, with relevant
Commonwealth, State, and Territory censorship Ministers using intergovernmental
committees to decide upon uniform standards and procedures. That the system is not
without tension is illustrated by the fact that most of the states and territories still reserve
the right to maintain their own censorship procedures. This change, however, was
not the result of individual conviction alone, since before the development of centralised
censorship in Australia, calls for changes to censorship (both a relaxing and a tightening)
have come from a variety of groups: pro-censorship arguments have predominantly
come from religious leaders, moral groups or key political figures, while the case against
censorship has been driven by individual figures (especially those targeted by the
censors, such as in the case of John Power), the commercial press, and groups
pushing for expanded freedom of speech (Bennet, 1968).

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144 What should be noted, is that artworks remain outside of this classification scheme, and
debates still continue regarding the acceptability of some material displayed in Australia,
charges of "showing an obscene work" can, and are, still levelled at artists.
145 In an informal manner, the current system was only formally finalised in 1996 with the
introduction of the Classification (Publications, Films and Computer Games) Act 1995. The
initial stages of the development included the use of the Australian Capital Territory as a testing
bed for classification and expanding the system to the other States and Territories over time.
146 The "R" Classification was introduced in 1971, however the legal shift from reliance upon the
use of the concept of obscenity (which comes to Australia from English law and definition) was
not formally discarded until the National Classification code was introduced. The National Code
replaces this definition with a new measure, that of "community standards". This measure
places the basis of classification on the potential audience of the medium in question. Thus, if
the content if likely to offend, it will be tolerated in limited audience media (where the audience
is deemed suitable for the content), or have distribution restricted to persons over a certain age.
This is starkly different to the concept of obscenity, that was linked to the potential of the
material to deprave the corruptible mind.
147 Most notably starting with Don Chipp (who became the Minister for Customs in October of
1969) and who called censorship an "evil".
148 Western Australia, Tasmania, South Australia, and the Northern Territory.
149 Power, had sent some personal reading back to Australia from England, only to discover it
had been seized by the Customs Department. Power, through legal action, induced the Minister
to reverse his decision to place the individual work on the Banned Publications List.
150 Though this is an overstatement of their views, Coleman argues that the press has taken a
mixed approach to censorship, arguing for and against it depending on the strength of
community sentiment.
Censorship, therefore, has been a result of these competing interests, both during the period of Federation and in the pre-federated colonies. Bernard (1978:1–2) observes that the early introduction of theatre performances in the new colony of Australia was followed by concerns of community leaders about the effects of these establishments on the moral standing of the community, and the impact of these performances on young minds. With the introduction and increasing popularity of cinema (Bertrand, 1976:205), even greater concern was expressed by community leaders of the social impacts of film viewing on children and the "lower classes". It was these concerns that led to the establishment of the precursors to the current censorship system: the Commonwealth Censorship Board, established in 1917 to regulate the importation of film (this was later expanded to regulate locally produced films and materials shown on television); and the establishment in 1933 of the Book Censorship Advisory Committee (later to become, in 1937, the Literature Censorship Board). The boards utilised two standard techniques: prohibition, through the refusal to allow entry of material deemed unsuitable, and the use of police and legal sanction through seizure or the imposition of criminal charges. Both of these institutions, however, were not without criticism of their decisions and rulings, and various states ran, at various times, parallel censorship systems to meet the more stringent demands of their constituents.

In regard to broadcast media, what can be clearly identified is that the limited number of commercial interests in the provision of these services have actively sought to reduce the direct level of government intervention in the content they present (Bailey, 1974:511). The system of regulation through the licensing of stations had the advantage of essentially doing away with the need for a complex arrangement of regulatory mechanisms to ensure compliance, but failed to provide the Government any better means of controlling the media proprietors than via the use of the "deplorable word": either the acceptance of a breach of standards or the total removal of the stations licence (Joint Committee on Wireless Broadcasting, 1942:65). This system, however, has continued to function with radio and television stations actively and passively engaging in the censorship of their material, or through the use of self-regulatory groups such as the Federation of Australian Commercial Television Stations (FACTS) that place limited control on the activities of broadcasters or advertisers. Under the current Broadcast Services Act, the Australian Broadcasting

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151 New South Wales passed the Places of Public Entertainment Act in 1828, only the fourteenth act of the new parliament.
152 These concerns continue today with revision of rating standards based on the perception of access and harm to children of violent and/or pornographic materials. In 1988 the Joint Select Committee on Video Material reviewed classification standards based on these concerns, including detailed chapters outlining these concerns (section IV of the reports).
153 Later concern about public safety (especially fire hazard) and public liability emerged, resulting in a period of local jurisdiction over cinema censorship as well as fire standards.
154 The first state to formalise film censorship was New South Wales, that gazetted the Inspector of Films in 1908.
155 Such as the Queensland Literature Review Board (established in 1954) in response to technology change that introduced paperback novels to flood the market. This was a world-wide phenomenon, and not limited to Australia.
156 It should be noted that in regards to film and television content, encouragement of the production of Australian content has been regulated through licensing agreements (for television) and tax concessions (for films with substantial Australian thematic material).
157 However, on occasion the Tribunal used reduced-term licences as a means of indicating displeasure with performance.
158 Codes of Practice are registered with the Australian Broadcasting Authority, and thus can be described as a co-regulatory system.
Authority has limited powers to oversee the development and adherence to codes of practice in regards to broadcast content, in line with a set of principles laid down in the Act. Overall, argues Moorhouse (1973:736), this loose system of content regulation has served the industry well and avoided substantial calls for more direct government intervention in a more systematic manner. For industry, this co-regulatory approach has allowed them to avoid compliance costs associated with external content regulation, and for government, has allowed the acceptance of regulation without the expense associated with direct oversight and intervention in the activities of media organisations. This approach has also been taken up by the Australian Record Industry Association (ARIA), who have a code of practice for the labelling of music that may contain offensive lyrics (ARIA, 1996). However the self-regulatory approach, while showing increased interest in censorship by the Federal Government, is undermined in practice by the way that violations of codes of conduct have failed to result in significant sanction by government and has, on occasion, lead to the relaxation of regularly flaunted prescriptions (Blakeney, 58–9). This approach is particularly evident in the regulation of advertising content, where broadcasters have consistently succeeded in maintaining looser standards than those called for by sections of government and groups like the Australian Consumers’ Association. For music lyrics, this regime has even less government enforcement and oversight, with labelling only serving as an advisory function to consumers and implemented at the point of sale with little government oversight.

What sets the Australian literature censorship system apart from the content regulation of broadcast media is the active intervention of government in determining what materials can be imported into the country for distribution and legal sanctions based on categories of acceptability. Partially this has been based on the portability and physicality of the items in question. This system can be seen to be applied where the costs of entry into the communications industry are low, where the number of market players is large, where industry-wide regulation is not easy to maintain, and where materials are consumed in small groups or in private, however distinctions between the need to regulate, for example, pornographic literature and telephone calls can only be made on the basis of practical capacity. Postal services have, traditionally been subject to regulation against the transportation of offensive materials (such as the Post and Telegraph Act 1901 that gave the Postmaster Generals’ Department the power to impound and destroy offending material), while telephone conversations, because of

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159 Blakeney (1986:53) argues that underpinning this regulatory approach is the assumption that regulation by industry is more effective and efficient than a system of direct government oversight in broadcast content. This assumption, he argues, has led to the establishment and entrenchment of media self-regulation in Australia, and allowed industry to negotiate, and occasionally to dictate, terms to government co-regulators.

160 However, in terms of the standards applied by FACTS, advertising is also regulated under criminal and civil law (Barnes and Blakeney, 1982).

161 These “warning labels”, Communications Update notes (1997:16), may only serve to increase sales of these products.

162 This approach, while posited to be based on the concept that adults should be free to see what they wish, is framed in a way that focuses the process of regulation (categorisation) on the protection of minors and innocents.

163 Blackshield (1970:11) sees the problem of regulatory enforcement as part of the somewhat arbitrary, and completely artificial distinction of the regulation of literature produced outside or inside Australia (where only externally produced literature was bound by the same stringent form of censorship at pre-existing customs checkpoints).

164 In 1891 telephones were connected to Melbourne’s brothels.

165 1901–1973, Section 43. However, the Act does contain exemptions for academic and artistic purposes.
their private nature (and the capacity to systematically monitor them), have remained largely free of regulation\textsuperscript{166}. Where personal communication and music lyrics have become subject to some form of censorship is through the introduction of antivilification legislation\textsuperscript{167}, that has been used as a complaint-based form of censorship based on the argument that speech that offends, insults, humiliates, or intimidates another person or a group of people based on race, and leads to violence, should be suppressed to maintain public safety.

**Recent Trends in Censorship**

While the shift from censorship based on prohibition of the obscene to classification for the adult began in the early 1970s, many of these reforms have only slowly filtered through the Australian political system. This can be seen through a change in government attitude, followed by the adoption of informal agreements and test legislation, and finally with the introduction and modification of new legislation through the Australian Federal Parliament in 1992 and 1995\textsuperscript{168}. With the election of John Howard's Federal Coalition Government in 1996 a wide range of small changes and adjustments have been made to this system to tighten some of the provisions, the range of material included, and the level of access to certain material (especially material pertaining to sexual matters and violence). The Government did not attempt to evoke a wholesale reform of the system, rather using regulations, pressure, and coercion to bring about subtle (and not so subtle) changes to the media landscape of Australia. That wider reforms were not mooted (on a par with that of its Industrial Relations or Taxation policies) illustrates the political utility of maintaining the illusion of censorship as removed from governmental control. As the Attorney-General Daryl Williams stated (1997) on the subject of his role as Minister responsible for censorship:

> "letters either upbraid me for not stemming the tide of distasteful films, videos and publications coming into the country, or chide me for not allowing people to make absolute choices about what they wish to read, hear and see."

At the surface level the Government moved to tighten existing controls over media content through the introduction of new legislation and variations of regulations governing classification criteria. Initially they sought to modify the importation and distribution of video material through the reclassification of the "X" standard to explicitly exclude "offensive fetishes" and consensual violence through the introduction of the Non-Violent Erotica (NVE) category in 1998\textsuperscript{169}. This move, says Albury (1999:6), disenfranchises those engaged in "minority" sexual practices by making their legal sexual practices unrepresentable. Secondly, the Government detailed guidelines for printed matter classification (from a document of eight pages to one of twenty-one). While the criteria contained in the classification standards for various categories of publications was not substantially more restrictive than the previous guidelines, increased stipulation and definition of the subjects (the September 1999 document contains definitions that its predecessor did not) is a move to more closely restrict the

\textsuperscript{166}Except where the service has been used to harass. Telegraphs too were largely free of official censorship, however the transmission of the communication was subject to review by the entry and receiving operators, as well as relay operators for long distance communication (as in the British postal model, operators were required to report seditious communications).

\textsuperscript{167}The Racial Hatred Act 1995.

\textsuperscript{168}The Broadcasting Services Act 1992 and Classification (Films, Literature and Video Games) Act.

\textsuperscript{169}Though the NVE category came under attack from government backbenchers in March 2000 who called for the category to be retitled "Non-Violent Pornography".
discretion of the Office of Film and Literature Classification in making rulings. Additionally, during 1999 legislation was also brought before the parliament changing the basis on which "1900" telephone services could be accessed within Australia. This change introduced an "opt-in" system that would separate services dealing with sexual content from non-sexual information (Alston, 1999f) and require telephone customers to specifically request access to these services from their telecommunications carrier. Sexual phone services within Australia would only then be accessible by telephone subscribers who had obtained a Personal Identification Number (PIN) by writing to their telecommunications company (Alston, 1999e).

These minor changes have been accompanied by a range of informal actions by the Government. First, Daley (1998) argues that the position of the Senator Brian Harradine holding the balance of power in the Senate allowed a strong conservative group within the Government to agitate for the reclassification of a number of high profile films (such as "Salo" in 1998, which was subsequently rebanned, and "Lolita" in 1999, which was not). Additionally, Marr (1999b) notes that Cabinet took the step of rejecting an entire short list of candidates for the position of OFLC classifiers, calling for a more representative group of "ordinary Australians" for the positions. This mirrors the introduction of Community Assessment Panels in 1996–7 to act as advisers to the OFLC (in an informal manner, through the Standing Committee of Attorneys-General), reviewing material classified by the Office to present a "grass roots" perspective on the appropriateness of classification standards. Underpinning these decisions was a fundamental dissatisfaction with the actions of classifiers, which the Government had seen as too specialised in their skills and not representative of the views of the average Australian citizen. Many of these modifications have, according to Marr (1999a) been passed through the political process with at least tacit support by the Australian Labor party, eager not to be seen as soft on issues of moral decay, especially when "worst case" scenarios are being touted as reasons for the increase of censorship or the greater enforcement of existing provisions.

This "tacit" support (concerns about violence on television, especially during news broadcasts was an explicit concern of the previous Labor Communications Minister, Michael Lee) can be seen to extend into the area of television self-regulation, with 1999 seeing the introduction of a new code of practice by FACTS. This code significantly tightened restrictions on sex, violence, and course language on television. Essentially, while keeping the standard classification nomenclature familiar to the public through movie and video cassette classification, the new code strengthened content restrictions by explicitly linking sex and violence to the progression of the storyline. Where films and video cassettes are restricted in the gratuitousness of their sex and violence, linking these themes to the progression of the narrative is significantly different to that where artistic merit can be justified. By including restrictions on news broadcasting, especially those services that broadcast during "family view time" (the popular 6–7pm timeslot),

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170 The Film and Videotape guidelines have contained these definitions for a number of years (OFLC 1999).
171 For which international services would not be included. The Minister for Communications, Information Technology and the Arts, Senator Richard Alston, stated that, if restrictions on domestic sex lines spawned a growth in 0011 international substitutes, then action might be taken to restrict their advertising within Australia (Taylor, 1999).
172 Although this could not prevent the use of internationally-based services by Australians.
173 In this case the OFLC declined to review the decision because the application was considered not to have come from an aggrieved party.
174 Which permits the broadcasting of "G" rated material only, with the exception of news, current affairs and "Program material dealing in a responsible way with important moral or social issues" (FACTS, 1999).
Australia's Online Censorship Regime

the code stipulates that care needs to be taken and the use of appropriate warnings to be inserted into the programming. Overall, says Marr (1999c), this new code significantly tightens restrictions on broadcasting, requiring more detailed rationales behind the broadcasting of violence and especially sexual matters to the Australian public. According to this new code sex is not fun in of itself (on television at least), and is not a matter that can justify itself without the background of a fictional narrative.

This view was made clear by the Minister for Communications, when he protested (and Channel Ten eventually conceded) at the appearance of the "soft-porn" "Sex/Life" television show on commercial television. What made the FACTS code changes interesting was the intrusion at the time of government's consideration of digital television conversion. Given (1998) details this decision, taken during 1988 to divide the new digital spectrum between existing free-to-air television license holders. He states that this was an unpopular move (notably by other media organisations) to retain the pre-existing oligopoly on television as a means of isolating existing television stations from the threat of further competition (following the entry of pay-television into Australia) for seven years. Marr (1999c) goes on to associate these decisions with the development of the FACTS code. Essentially, he notes, the Government preserved the existing pattern of media ownership (which could have been opened to substantially greater competition or vastly increased broadcasting requirements) at the very time that it was pressuring for action on the broadcasting of violence (in the wake of the Port Arthur massacre in Tasmania) and sex. That the FACTS code was quickly redeveloped and consultation time reduced, he argues, is evidence of government regulatory pressure in the area of digital policy being applied across into content issues.

A Summation: Control and Distance

What is clear is that government censorship efforts, while based on a single guiding principle (that of moral enforcement prior to the 1970s and the classification of material for individual decision in the 1984 principles) cannot be delineated clearly into a single regulatory model. Partially this is related to the distinction between "public" and "private" communication and the unwillingness of governments to become deeply involved with what Australians say in private, but also because of the constitutional division of responsibility between the States and the Commonwealth over communication and entertainment media. Through the establishment of a classification body (currently the Office of Film and Literature Classification), recent government action in the field of censorship has been to streamline the process and classify material into a singular typology of standards. Although the current classification system still maintains separate treatment of printed materials (which maintain a classification regime of "unrestricted", "category 1", "category 2", and "refused classification"), opposed to the classification scheme for films, videos and computer games (OFLC, 1997).

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175 A show that became incredibly popular with Australian viewers (boasting 1 million viewers per week before it was removed from the air).
176 The ABC and SBS (the Special Broadcasting Service, the second publicly-owned free to air broadcaster in Australia) have their own codes of practice that provide them with greater latitude in their broadcasting. It is doubtful that the unedited "South Park" could have ever appeared on commercial television in Australia.
177 Such as multi-channel broadcasting rather than the move to High Definition Television (HDTV).
178 In which a gunman randomly killed tourists at the popular historical site. This event also provided the political support for the Howard Government's national gun law reform policy.
179 Although the current classification system still maintains separate treatment of printed materials (which maintain a classification regime of "unrestricted", "category 1", "category 2", and "refused classification"), opposed to the classification scheme for films, videos and computer games (OFLC, 1997).
length" regulation. The increasing variety of media vehicles, however, and associated expansion in the types and composition of media content have resulted in a rather complex set of regulations from direct intervention, policing, and compulsion, to the licensing of private companies to instigate censorship at the level of the firm and industry association (such as the FACTS and ARIA codes of practice).

In observing the relationship between the Howard Coalition Government and censorship we can see the uneasy tension between a desire to remain distant from the machinery of censorship and political motivation to retain some form of control and capacity to react to particular events or issues (such as the release of the films "Lolita" or "Salo"). With regards to the control of printed publications, films, videos and computer games, the Government has the capacity to react through modification of the national classification code (albeit in a delayed manner through intergovernmental agreement) and the referral of individual items for reclassification. In regards to broadcast standards, the self-regulatory model entrenched through the Federation of Australian Commercial Television Stations is far more limiting on government, with various political and economic pressures being used to influence the large media companies rather than the introduction of coercive controls through the Australian Broadcasting Authority or similar organisation. The Howard Coalition Government has shown broad, if subtle moves to strengthen various aspects of Australia's censorship system without moving for a wholesale change in the regulatory landscape on a par with their tax reform package or industrial relations changes.

**The Case: Online Censorship in Australia**

This second section introduces the history of the case study to be analysed in the next Part. It begins by presenting a number of definitions for computer networks before turning to the case history itself. This is divided into a number of parts: First, early experiences with private networking is examined, introducing the (comparatively) simple technology of Bulletin Boards that developed with the spread of affordable home ("desktop") computing in the mid 1980s and early 1990s. This technology remained largely uncontrolled during its heyday, with governmental concern over network technology focused on the misuse of computer equipment for computer intrusion; Second, with the introduction of the Internet into the home (through the development of the World Wide Web and associated technology), the rapid increase in computer network usage produced a range of regulatory and legislative action by Australian State governments. This action can be seen to follow negative press reporting of the content being transmitted via Internet, motivated by moral entrepreneurs promoting the view that the technology was being widely misused for the distribution of morally dangerous material; Third, this dispute can be seen in the context of a wider international political debate, encouraged by legislative action in the United States to control content. That the political debate in Australia became peppered by the language and rhetoric of this American debate is observed, as is the failure of this "moral panic" to fully develop in this country; and, Fourth, following early moves at rapid regulation, the Commonwealth

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180 The introduction and control of commercial telephone content being one key example of a cross-over media in a traditionally "private" communications process.

181 That the outcry over "Lolita" was so loud while similar themes were being explored in the film "Happiness", shows that this desire for control is not strictly based on a broad desire to defend the public interest, but to do so where this is broadly observable. The irony of this situation is that, in attacking Lolita, the film became much more of a commercial success than its rather basic treatment of the subject matter would normally have merited. If Happiness had also been attacked in the same manner, it is likely that it would have received a far broader release than its "art house" distribution. While the deliberate use of public outcry over film content by distributors has not been unusual in Australia (especially prior to the 1970s), attacking a celebrated work like Lolita (based as it is on classic literature) was bound to face strong resistance from cultural elites.
became active in the debate, developing a national approach to regulation that, while
first attracting support among the online industry, finally became the focus of heated
conflict over the exact contents of any regulatory regime. This legislative debate
produced the *Broadcasting Services Amendment (Online Services) Act 1999*, a co-
regulatory censorship regime for the Internet in Australia. As a summation of this
chapter, Appendix 5.2 contains a timeline of events in the development of computer
networks in Australia.

**Defining Computer Networks**
An overriding feature of the debate outlined in the case history was the range of
conceptions of the technology being discussed. As a convergence of computerisation
and communications, computer networks, and the use to which they can be put, raise a
number of challenges for presenting a single, agreed definition. As such, a range of
competing definitions are presented, each having their own value in the context of the
policy debate.

**(I) A Technical Definition**
A computer network commonly defined as is a series of computers linked to share
information, transmit communications and provide remote processing capabilities (Smith,
et al., 1996:1). Many common forms of this technology are the local area networks
found in government, business and educational institutions, private bulletin board
systems, and the emerging technology of global networks such as the Internet.
Regardless of the form of technology used, computer networks have a number of
essential components: two or more computers, processing software, and a
communications link. The term "computer network" describes both small scale,
intermittent contacts between machines of limited power and storage through to vast
networks of linked computers ranging from desktop microcomputers to supercomputers
owned by major corporations and public enterprises.

Regardless of the scope of computer networks themselves, the essential technological
development that has made the use of computer networks publicly available is the wide
scale convergence of computing and communications. From the first computer networks
in Australia and the world (that used a clumsy combination of printed tape and punch
card information transmitted by teletext machines), networking computers together has
allowed users the ability to transmit information between machines. Under this definition
it is possible to declare that two computers, sharing information via interchangeable
media are, in essence, a computer network (the simplest example would be a person
carrying a computer disk between two machines and reading information from it on
both). While this definition is essentially true, modern usage of the term implies the
application of direct electronic means to communicate between machines (wire-based
direct connection or wireless communication, such as microwave, infrared, or radio
signals). Since the 1970s, and especially with the desktop computing revolution of the
1980s and 1990s, modern computer technology allows for a wide array of
communications by users, from electronically-conveyed mail (email), data exchange (up /
down loading, world wide web access), on-line conversation (Internet relay chat or "chat
rooms"), to the more direct syntheses of telecommunications and other media (Internet

182 A wide range of computing and communications technology can be used to create computer
networking capabilities, from basic home computers using existing telecommunications lines to
supercomputers utilising satellite and microwave communications.
183 Note that not all users of a computer network need access to a computer itself. Many systems
utilise a limited number of computers and augment this with terminals. A terminal is a means of
accessing a computer network (a screen, keyboard, communications equipment, and possibly
input and additional output devices, such as a disk drive, speaker, or printer) that does not
actually compute (the terminal is a relay and the computational element of the system is done
remotely).

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voice conferencing, telephone dialling, online "radio", and the delivery of multimedia). As developments in digital communications\(^{184}\) have accelerated, the usefulness of systems like the Internet have reached the general computer user.

(II) Cyberspace and Virtual Communities
While the establishment of computer networks has brought a range of services to computer users these developments have led to changes in the way some computer users view themselves socially. With the ability to communicate quickly and easily with people around the world using a variety of forms of communication, observers of the technology have begun to note the development of "virtual" (or "online"\(^{185}\)) communities (Rheingold, 1993; Mitchell, 1995). Kitchin (1998:86) defines social groupings that form in the online realm as being "free of the constraints of place and based upon new models of interaction and new forms of social relationships". What this means is that online communities are conceptual communication "spaces" where people can interact and can regard themselves as members of a particular group through participation, without the necessity of being geographically accessible to other members. Like other social groups, these communities maintain their members' commitment to the group, monitor and sanction behaviour, and produce and distribute resources (Smith, 1998), but this social interaction and meaning-making is conducted via the electronic medium of computers and in a non-geographically defined interactional spaces. Evidence of this can be seen in the way that various on-line communities have developed substantial etiquette and rules for acceptable behaviour. Additionally, social and technological sanctions can be applied to community members who violate these rules. For some forms of community (such as membership of moderated email discussion lists), exclusion can be applied as a sanction.

This point of interaction through computer networks has become a central feature of what has been widely termed "cyberspace", or, more appropriately can be referred to as "electronic transactional space" (White, 1996:5). The term cyberspace was originally coined by the author William Gibson in his 1983 book *Neuromancer*. In this book he outlines the concept of a computer generated interactional space, where computer users interact through abstracted representations of data. Gibson saw this form of interaction as a "consensual hallucination" in which people engaged in communication, commerce, recreation, and crime. Outside of fiction, however, the concept of cyberspace is an elusive idea to define and is subject to a range of different definitions and ill-defined uses of the term. Generally, such as in the mainstream press, the term "cyberspace" is often used to describe the act of utilising computer networks in some capacity, generally the use of computers to access computer networks for the purposes of retrieving data and information, communication, and entertainment. Additionally, the term can be seen as the location in which information is stored\(^{186}\); a pool from which network users draw, rather than enter. Others see this differently, where the individual enters the virtual world to interact in the *domain of cyberspace*\(^{187}\). While the former is more technically accurate, the latter view (as advocated by writers such as Bail) has value when one

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\(^{184}\)Not simply in terms of the ability to transmit data quickly and reliably, but also through the development of the *infrastructure* required to a link wide variety of computers together.

\(^{185}\)These terms are used interchangeably in this thesis.

\(^{186}\)Therefore, information can be stored in a number of different geographical locations (separate computers), duplicated, or split among a host of different machines. The term "Cyberspace" has been used to describe "out there", the ocean of information and data available to network users, regardless of their location.

\(^{187}\)Some discourage use of the term to describe modern computer networks because of their failure to meet Gibson's original vision of a brain–computer interface allowing for the exclusion of all other sensorium (The Jargon Dictionary, 1998).
considers the social context\textsuperscript{188} of using computer networks as tools to communicate with others.

Just as the concept of convergence applies to the technological development of Internet-related technology, the issue of convergence can also be applied to the way people who live and work within this "virtual" environment can be classified (Watts, 1996). At the most basic level it is possible to identify four types of participants in the computer network industry (modified from ABA, 1996; Smith, et al., 1996):

- **Network (or infrastructure) providers**: These government organisations and corporations supply the basic technology upon which computer networks operate: telephone or communications connections. In Australia this mainly refers to Telstra, however competition is opening up this area of service delivery;

- **On-line service providers (or Internet Service Providers, ISPs)**: these organisations (companies, non-profit groups\textsuperscript{189}, government agencies and departments, and organisations\textsuperscript{190}) provide a gateway for users to the network or computer system of their choice. Some organisations that do not provide general access to the Internet, but maintain systems storing information which is assessable to the Internet are sometimes called "Internet Content Hosts" or ICHs;

- **Content Providers**: produce material that is stored and distributed on computer networks. The providers may be deliberately involved in the development of material specifically for distribution on a computer network (such as an individual or group who produces HTML pages\textsuperscript{191} for the World Wide Web) or may have material placed into a network by a third party;

- **Users**: consumers of on-line services utilise the network infrastructure to access the content provided on the computer network via on-line service providers.

However, this simple distinction breaks down when one examines the activities of many of these groups. For example, Telstra (an infrastructure provider) also offers the services of an ISP (Bigpond), and hosts pages of information (both that it stores for customers and it generates itself). Its staff use the Internet in their work, consuming information from the Internet and generating corporate and personal information of their own. As a whole this corporation can be seen to engage in all facets of the industry. Additionally, at a smaller level, most computer network users engage in the production of content, even if it is only in the form of email. Thus, it is almost impossible to definitively classify those individuals and organisations engaged in the provision and utilisation of this technology.

**(III) Territory, Borders, and Jurisdiction**

What is important to consider is that as greater numbers of people have begun to "occupy" cyberspace, and take on life within virtual communities, the development of cultural similarities (shared values, norms, standards, and their associated sanctions and

\textsuperscript{188}Additionally, the use of computers as a "buffer" between members of a virtual community allows for the deliberate or accidental modification of the self as presented to other users. Donath (1998) explored the concept of identity within virtual communities and pointed out the fact that interaction between individuals in a virtual environment was free from a large number of the social cues that one takes for granted in other social interactions. The ability of people to take on social roles different to their own (posing as a different gender, augmenting one's age, ability, or position) fits in with the representational nature of Cyberspace as a location where one can visit as a non-corporeal entity.

\textsuperscript{189}For example, Canberra's PC Users Groups (PCUG), or the Melbourne PC Users Group.

\textsuperscript{190}The university sector in Australia has historically been a significant contributor to the provision of computer network in Australia.

\textsuperscript{191}HTML: Hypertext MarkUp Language is the standard formatting protocol of the World Wide Web. HTML allows the inclusion of text, sounds, images, and multimedia into documents able to be accessed and interpreted by browser software and can include links to other pages, email, bulletin boards, and file transfer points.
reinforcement mechanisms) has added to a decline in the value of boundary-based models in relation to defining computer networks. Reeves (1996:763–7) outlines these models as based on the legal principle of the right to exclude: territory can be seen as divided into sections that have specific patterns of ownership, and the owners control access to, and enjoyment of, the territory. Legal principles, developed for use within specifically defined geographic jurisdictions have had trouble defining cyberspace in legal terms: when dealing with a global information system that stores, processes, and transmits information on a global scale, where do traditional concepts of boundaries and jurisdiction apply, and when are they invalid? Boundaries, then, can be applied around systems (computers or networks), virtual communities, individuals, or the whole of cyberspace, rather than taking notions of geography or legal jurisdiction and transposing them on the emerging global network and its users. Additionally, Reidenberg (1997:84) argues that the convergence of technology means regulators face a growing disintegration of the applicability of traditional legal boundaries. Where communications have traditionally been regulated via a host of technologically-specific laws, the effect of technological convergence is to make these distinctions valueless. As computer networks find more varied use, the range of activities facilitated by computers will continue to intrude into other regulatory areas.

International law has been used to provide a legal basis for the regulation of the use and reproduction of intellectual work, through the *Berne Convention for the production of Literary and Artistic Works*. However, as Post (1998) identifies, even these attempts to provide extra-territorial legal conventions rely on national legal structures to provide the actual mechanisms for which protection and regulation is applied. A less obvious, but more relevant example may be the use of treaties that govern the flow of waterways between two countries where the doctrine of equitable utilisation occurs (Godana, 1985:50). As Godana points out, the advancement of the equitable utilisation philosophy was neither simple, nor straightforward. Waterways, by nature of their geographical position, have historically been claimed by nation states under the doctrine of absolute territorial sovereignty, and conversely have been claimed by downstream states under the common law practice of riparian rights (where the upstream states are only allowed fair usage of the water without impeding flow to others). Implicit in the recognition of the equitable utilisation is an acceptance of the value of the approach, and the institutional mechanisms to regulate the distribution of resources. As Godana observes, these prerequisites have not been easy to implement. Therefore it is important to realise the difficulty of developing a similar system for the regulation of the "flow" of information in computer networks, which, to maintain the river metaphor, can be seen as a vast interconnecting lattice of creeks, tributaries, and rivers, flowing in all directions. What is certain is that the application of censorship or restrictions in one part of the network has unavoidable extra-territorial dimensions.

(IV) Telecommunication or Broadcast Medium?
Given the different definitional approaches to computer networks, from strict technical views to communitarian and legal conceptions, it is clear that computer-facilitated communication is adept at avoiding clear definition and classification. This is partially because of the range of activities undertaken via this technology, but also because of the way in which individual users, institutions, and governments perceive the process

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192 This concept originates from the right of a land owner to exclude people from trespass.
193 This principle states that division of the resource should be based on an assessment of the needs of each party and division based on this need, rather than historical usage or some other form of distribution.
194 Also called the "Harmon Doctrine".
195 A treaty between those nations which use the water, and an administrative body that oversees distribution, compliance and dispute resolution.
and outcomes of electronic communication. As computer technology has become increasingly popularised, and the range of uses for common desktop computers expands, traditional definitions attached to media are simply no longer applicable. This is problematic, especially in regulatory approaches to the field. As Etheredge and Short (1983:41–3) state, governments are apt to attempt to apply lessons from other policy areas where possible. Therefore, policy outcomes can be seen as function of the similarities between of the two areas, the capacity for policy makers to learn and understand policy lessons, and the appropriateness of the paradigm used (the actual, rather than perceived similarity of the areas).

What must be made clear is that any distinction between a "broadcast" and "telecommunications" paradigm (or industry, or sector, or some other division) cannot be seen as explicitly recognised in the discourse on the issue of computer network regulation. Livingstone (1996:5) identifies that the concept of telecommunications, which by definition includes the broadcast media (radio and television, especially free-to-air), is more commonly contained to the discussion of interpersonal communication between individuals or small groups. While this distinction can, and is, seen as artificial, a rough form of division has been the distinction between the public sphere and the private sphere. This division, therefore, is indeterminately set at the general number of the Australian public to access the message being conveyed: wide (television, radio) falling into the broadcasting category and slim (telephone, telegram, amateur radio) falling into the category of telecommunications (both, however, can be defined within an overarching category, simply called “communications”). This is clearly evident in the Australian government's own regulatory responses to traditional media and the division of responsibilities between a "telecommunications" Act and one focusing on "broadcasting". However, in regards to the concept of computer networking and the communication it facilitates, these paradigms have been particularly elusive to apply to new media with satisfaction. As Oddie (1996:87) alludes, the concept of convergence has muddied the waters of the telecommunications / broadcasting definitional divides and created a series of confusions and conflicts. This relates to the difference between point-to-point, point-to-multipoint, multipoint-to-multipoint, and multipoint-to-point communications and the capacity of computer networks to facilitate any of these communication methods. Whereas telephones are generally limited to a point-to-point focus, or television generally limited to a point-to-multipoint delivery, computer networking and the explosion of software applications for networked information has allowed the field to range from electronic facilitation of traditional mail delivery, to interactive communication, gameplay, or the "netcasting" of audio and / or video signals. Thus, the relevance of Marshall McLuhan's "the medium is the message" in this context may be lessened by the flexibility of computer networks to deliver a wide range of media formats. What needs to be examined, therefore—before any serious examination of the regulation of computer networks can be undertaken—is the mixture of paradigms and regulatory approaches of broadcast and communications technology that form the "institutional memory" and policy-lessons for regulators in Australia.

Bulletin Board System Regulation

196 For example, Osborne and Lewis (1995:1) highlight this distinction as limited.
197 In Australia the concept of "narrowcast" has also been used. Explicitly this form of communication has been applied to the distribution of pay television, where the number of recipients is larger than personal communications, but free access to the communication is not available. Additionally, the concept of the "limited public audience" has been used in censorship regulations, where normally RC material has been tolerated at specific events (such as film festivals) where the audience is small, and contains a specific type of individual (film aficionados).
198 This section is also based on verbal discussions with Lawerence Gould (Sydney Information Exchange BBS), online discussions with Colin Lean (the Runway BBS), and email discussions
The regulation of computer networks has developed as the technology has extended from the preserve of large institutional users into the home and become affordable to families, and even children. Essentially, computer networks have existed in Australia since 1959 in extremely limited capacity. Much of the development of computer networking prior to the 1960s were small scale private companies operating limited data processing services. During the mid 1960s the Post Master General's Department launched an initiative to develop the Common User Data Network (CUDN), importing massive amounts of computer technology and expertise into Australia to develop and run a commercial networking service for a select group of customers (Moyal, 1984:279–85). This innovation proved problematic and eventually was scrapped as a commercial service, an expensive lesson that would limit the direct involvement of the Department (now Telecom / Telstra) in large scale computer networking projects until the acquisition of AARNet and the development of Telstra's ISP business in the mid-1990s (Cuppola).

While the telecommunications industry in Australia had left the development of computer networking to individual organisations and institutions (such as Universities), with the introduction of computers like the Apple II, TRS-80s and Commodore range, home computing became economically viable. The introduction of affordable modems allowed the average computer enthusiasts the ability to use and establish computer networks. These amateur and quasi-commercial networks, called Bulletin Board Systems (BBSs) became the hobbyists' paradise, and the number of private systems in Australia expanded during the mid-late 1980s. A Bulletin Board System is a computer that serves as a central storage for electronic mail, computer files and information. Users with computers or terminals that have access to a modem are able to dial up to the system remotely, for the cost of the telephone call, the only limiting factor being the availability of the system (the number of users who could simultaneously access the system) and the distance of the user from the remote system (local versus subscriber trunk dialling telephone costs).

(I) Initial Concerns about Computer Networks

While institutional systems were developing the basis for what would become the Internet, the popularity of home computers and computer communications formed the basis for what was to become the first major effort to regulate computer networks in Australia: the revision of criminal codes to deal with computer crime. This revision was based on the realisation that criminal law, founded on concepts of physical presence, jurisdiction, and boundary models, could not handle what was perceived to be a major threat: Cracking (Glover, 1986a:4). Cracking is the unauthorised intrusion into a computer system for the purposes of stealing or modifying information, or processing and communications services. While the issue of computer crime had been the subject of a number of government reports and the seriousness of the issue had been flagged (such as in Sindel’s 1978 report for the New South Wales government that police begin a systematic study of the problem, including limitations in existing law), it is not until 1986–7 that state and federal governments begin examining the implications of computer crime and their respective criminal codes (Queensland Department of Justice, 1987). What is important to note is that, while the problem of cracking captured public attention at the time, and was the focus of much of the activity regarding the development and modification of legal codes to accommodate computers, Glover (1986b:37) argues that the scope of the actual problem was limited, and vastly smaller than more common cases of fraud by employees with access to the computer systems.

[with Chris Moran (X-Change Australia BBS) and Glen Turner, with thanks. It should be noted that the BBS community has an extensive and interesting history beyond issues of content regulation, however limited amounts of research into this interesting historical period has been undertaken to date in Australia.

199 The term is most often referred to intrusion from a remote location, via a computer network. However, misuse of computers by employees is also a problem associated with this type of crime.]
they manipulated. Common misinterpretation of the various different types of crimes that could be committed using a computer led to the focus on the surprisingly glamorous world of cracking.

In 1987 then Attorney-General Lionel Bowen established a committee to examine the issue of computer crime, and to develop a regulatory approach to curb the increasing incidents of computer intrusion within (and stemming outside of) Australia. The Gibbs Report, fast-tracked on the request of the government, focused on cracking-related issues (unauthorised access or use of Commonwealth computers / damage or modification of data). The recommended changes to Commonwealth acts formed the basis of what was to be called "a co-ordinated strategy to deal comprehensively with computer crime", (Garnsey, 1993:64–5), but essentially this simply co-ordinated Federal and State thinking on the issue of computer related crime, allowing each jurisdiction to take such steps as it deemed necessary. This legislation, and the development of specialist computer crime units (such as the Australian Federal Police and Victorian Police Department units) led to some notable prosecutions, and through association, police interest in Bulletin Board Systems led to a limited range of raids in relation to cracking information, and increasingly carding, and software piracy.

(II) Video Games and the BBS Taskforce

In 1993, concerns over violence in computer video games dovetailed into concerns about the free access of minors to regulated material through BBSs, and then Federal Labor Attorney-General Lavarch established a task force to prepare a report on the regulation of BBSs. The report examined the practicalities of extending a classification, or other form of regulatory, system to BBSs and anticipated many of the problems and arguments that would later be presented in calls to regulate Internet content: the availability of obscene or offensive material on the computer system and the

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200 This view is strengthened by later studies that indicate that the most common form of unauthorised computer access comes from within the organisation (Hayward and Sullivan, 1996).

201 For example, the Sydney Morning Herald covered the story of John Halkiadakis who was arrested for using stolen credit card numbers to acquire goods, and was charged with deception-related offences, rather than any charges for penetrating computer systems. This crime, was reported as "Man charged over hacking" (anon, 1987:6).

202 According to Sterling (1993), inspired by the film "War Games".

203 An attempt by the Standing Committee of State and Federal Attorneys-General in 1986 simply to adopt Tasmanian proposals in a national strategy had met with resistance (Coultan, 1986:3).

204 The Interim report was completed in 1988.

205 Computer intruders, even if they are simply "joy riding in the machine", often need to change log files and other data to erase their presence, this can sometimes lead to accidental erasure of important information, but also serves as a "catch all" for most cracking activity.

206 With States, such as Queensland, still modifying their criminal codes up to seven years later.

207 According to the Director of Public Prosecutions (DPP) (1990), this law was able to be rapidly applied to crackers who had been using Commonwealth-owned computers as springboards into global networks. Both the DPP and Dreyfus (1997) note that these early incidents were relatively minor (if technically proficient) criminals, and so far the courts have not seen fit to impose the harshest available penalties on these types of criminals (Matson, 1998).

208 "Carding" is obtaining and using credit card numbers for the purposes of obtaining through deception.

209 The illegal duplication of computer programs.

210 These concerns were to lead to the inclusion of computer games in the Office of Film and Literature Classification scheme. This issue was brought to a head surrounding the release of a game called "Nighttrap".
practical limitations of any BBS Systems Operator (SysOp) to effectively be able to review and screen the massive amount of material travelling over their systems. In the final report, the task force presented strong arguments for a self-regulatory system, noting the lack of capacity for government to effectively control the BBS community (BBS Task Force, 1994). However, by the time that this report was published, those interested in personal computer networking had already began to explore seriously a new development in public computer networks\(^{211}\), a technology that utilised simplified graphical browsing, hypertext, and provided the user with a greater access to material on a global scale: the World Wide Web had arrived in Australia.

The Arrival of the Internet in Australia

It is technically true to trace the history of what is commonly called "the Internet" back to the development in 1969 of a small network of computers in the United States to test the feasibility of using packet switching\(^{212}\) as an effective computer communications protocol. The success of the Advanced Research Projects Agency's Network (ARPANet) as the foundation of the wide scale computer networking was facilitated by the development of the World Wide Web and the first generation of web browsing software, such as Mosaic. Through this introduction, casual computer users could be introduced to an increasingly wide range of services (email, Internet Relay Chat (IRC), Usenet email groups, realtime audio and video, online games). As basic HTML programming is relatively simple, the amount of content available online expanded, drawing more and more Australians into the services. What is clear is that, at the time the BBS Task Force was discovering limited access to computer networking equipment in the home (4% of Australian homes had computers with modems in 1993), the simplicity associated with the World Wide Web (WWW or 3W) and the "point and click" technology of Hypertext MarkUp Language (HTML) would be the catalyst for a huge surge in activity that would result in a quarter of the Australian population "logging on" by 1998 (Green, 1998:3).

Under the then Keating Labor Government, the response to the emerging popularity was to ride with the flow, and promote the access of Australians to the technology, through encouraging the development of infrastructure by commercial operators and ignoring the development of sub-backbone access providers\(^{213}\). Thus, in its final report, the Broadband Services Group (1994:62–69) argued that access to computer networks needed to be commercially facilitated by restrictions to the range of participants able to enter broadband markets (such as Pay Television and the cable roll-out) to ensure return on investment in infrastructure. The group also noted the conclusions of the BBS Regulation Task Force and endorsed the "A" recommendation of a self-regulatory system of censorship, with the possibility of some form of compliance mechanism as an insurance for incentive. This resolution was supported by the release of the Government's Creative Nation statement (Department of Communications and the Arts, 1994b), presented a financially viable future for "multi-media" products (estimated at $2–3 billion by the end of the decade).

Calling for Regulation

\(^{211}\)Rafter (1996) notes that the people who ran BBS systems were likely to be those to shift into the newly arriving private service provision of Internet access. These individuals had the technical experience of computer networking and the interest to adopt this technology and, as interest in the Internet increased, demand of BBS services declined sharply (Bowtell, 1996).

\(^{212}\)Packet Switching allows for the transmission of data broken up into smaller units, call packets. Each packet is marked with a header that allowed the recipient machine to reassemble the original file (Intranet Resource Group, 1996).

\(^{213}\)Essentially Internet Service Providers who provided access to bandwidth purchased from the large telecommunications companies.
With the emergence of the Internet and the World Wide Web as an increasingly mainstream communications tool in 1993–4, by 1995 doubts regarding the moral value of the new communications medium were beginning to surface. These doubts were driven along by what some have seen as sensationalist media reporting (Reichel, 1996:4) and a willingness of state governments to engage in symbolic policy making to allay public fears that the medium was being used for the distribution of pornography, drug dealers, and by child abusers (Shiff, 1997:22–3).

During 1995, we see a rush of new legislation directly and indirectly concerned with Internet content entering Australian State Parliaments (Greenleaf, 1995:148–9): in Western Australia - Censorship Bill 1995; in the Northern Territory - Classification of Publications and Films Amendment Bill; New South Wales - Crimes Amendment (Child Pornography) Bill; and in Victoria - Classification (Publications, Films and Computer Games)(Enforcement) Bill, each designed to meet the perceived immediate threat to public morality and the safety of children. However, this approach served simply to produce a wide range of ambiguous legislation that, as de Zwart (1996) has outlined, evolved in an ad hoc manner through the translation of existing laws to apply to the new medium. That fact that few litigants existed to test the range of pre-existing law to the new technologies shows that this new legislation was not based on a wide scale social problem. Without this litigation, therefore, it is unclear that wholly new legislation was required: as Watts (1996) argues, there is a wide range of non-technologically specific laws that can be applied to activities on computer networks, such as defamation, privacy, and confidentiality. However, Young (1995) identifies the problems of this approach, as speculation of the legal status of particular activities by companies and individuals utilising on-line services can open them to financial cost and legal sanction, should their activities be deemed illegal by some later ruling.

This "ad hoc" legal development in Internet law saw the establishment in 1995 of two inquiries into possible national regulatory responses to Internet: The Australian Broadcasting Authority's "Investigation into the Content of Online Services", and the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies "Report on Regulation of Computer On-Line Services, Part 2". Hogan and James (1996:2–3) see the establishment of the Senate Inquiry as based on a fundamental dissatisfaction with the relatively lax recommendations of the BBS Task Force and the failure of the Federal Government to act on the basis of advice already received. The Senate Committee (1995) concluded that the transmission of offensive material (of an "R" or higher equivalent category) be made illegal, and that ISPs accept the role of proving their clients were over eighteen years of age and to establish a self-regulatory code backed by a complaints body.

(I) The NSW "Draft Legislation" Fiasco

The Constitutional validity of this Act has been questioned (Francis, 1997:7–10). One Australian case has already applied defamation law to the use of the computerised communications (Rhindos v Hardwick). In this case the plaintiff was defamed on a bulletin board that had wide-scale access among the plaintiff's peers. The service provider was not held liable in this case (Watts, 1996:18), however in the case of the Melbourne PC User Group, the Internet Service Provider settled a claim against a UK based litigant for defamation rather than contesting the legal challenge that the ISP was liable for all material posted from one of its users account. Thus the final determination of the legal liability of service providers remains uncertain (Melbourne PC User Group, 1998).

The Committee effectively accepting the view put by many at that time that the Internet is, essentially, an adult medium and children should be either restricted from it, or use it only under direct supervision.

Additionally, the Schools Council released a study that largely recommended the devolution of decision making regarding the regulation of access to "controversial material" on the Internet.
Regardless of the Federal interest in the issue, in 1996 the NSW State Labor Government decided to act on the issue of Internet Content. In what the Sydney Morning Herald (in LASIE, 1996) called "populist politics", the New South Wales Government announced on the 2nd of April 1996 that it intended to regulate offensive material on the Internet ahead of any national strategy, backing this with substantial fines (Davidson, 1996:3). The Bill, after being leaked on to the Internet, met with severe resistance from mobilising groups of computer enthusiasts who had, according to Lawrence (1996:C1), adopted the approach that the debate over regulation was simply an issue of increasing government censorship218 (Davies and Heitman, 1996:13), and attempted to counter the arguments of groups like the Religious Alliance Against Pornography that direct government control of Internet content was required (Wakeley, 1996:13). While Australia's established civil liberties bodies has been unable or unwilling to engage with censorship issues on computer networks, the newly formed Electronic Frontiers Australia rushed into the breach, co-opting interested protesters from Internet newsgroups and accelerating their campaign against regulation of the Internet, culminating in a march on the NSW parliament by approximately 200 people in May 1996. From an industry perspective, Internet Service Providers (ISPs) warned of disinvestment from the market (Robotham, 1995:3c) and faced with protests from both fronts, the push for rapid regulation ran out of steam (Crowe, 1986:12). With the publication of the Australian Broadcasting Authorities Report into the Content of Online services, policy makers were presented with a wide array of information and options to consider (Connolly219, 1996a:7), and in June Telstra's surveying showed Australian usage of the Internet to have risen above one million (Wright, 1996:3), ISPs were now big business. The rush to regulate had ended, a consolidation phase had begun.

(II) A Moral Panic?

One explanation of the decision to act taken by governments during 1995 and 1996 is presented by Evans and Butkus (1997:63), who see the call for regulation as the start of a classic moral panic in Australia. This panic, they argue played on historic fears of technological change220 and the vulnerability of children at the hands of deviants able to use and utilise the technology of the net. A moral panic is, according to Cohen (1972:9), a condition or episode where a person or groups of people become defined as a threat to social values and interests. This threat is often presented in a stereotypical fashion by the popular media, which creates a genuine fear amongst the community, which in turn demands action by law enforcement and government to solve the problem. Goode and Ben-Yehuda (1994:11), in their examination of a number of moral panics, define the event as:

characterised by the feeling, held by a substantial number of the members of a given society that evil doers pose a threat to the society and to the moral order as a consequence of their behaviour and therefore "something should be done" about them and their behaviour.

In this condition a number of groups coalesce to form a disproportionate response to the perceived problem: The press (through exaggeration of the problem and stereotyping the deviants responsible); The public (who feed upon the media coverage, and their attention and concern feeds back into it); Law Enforcement (who escalate the situation

218 Although Griffith (1996:26) observes the importance placed on the problem of ISPs by Danny Yee of Electronic Frontiers Australia.

219 Connolly describes the report as "bearing all the hallmarks of a conscientious and successful attempt to understand the nature of on-line services and the Internet".

220 A good example of this can be seen in the use of the technological fear inspired by George Orwell's novel 1984. During the 1970s, the wide scale introduction of computers into the workplace and the reduction of human labour required helped to feed fears of insecurity due to computerisation. Additionally, books such as Warner and Stone's The Databank Society helped to spread fears of the social and political impact of computer databanks on personal privacy.
Australia's Online Censorship Regime

for acting based on public concern alone); and Political Leaders (who form symbolic alliances with the moral crusaders who highlight the problem to gain popular support). What separates the moral panic from a social problem is the irrationality of the concern. Where a social problem can be defined as a legitimate concern based on a genuine problem facing a community, a moral panic is based on hysterical disproportionality fed by media sensationalism, rumour, and the actions of individuals or groups who feed public concern and agitate for action.

Thus, in 1995 a number of prominent media reports began to highlight the availability of pornography via on-line services, focusing on the availability of text, sounds, images, and film of an extremely graphic sexual nature. In February 1995 the popular "New Weekly" magazine published an article entitled "Virtual Nightmare: The computer net that can trap your kids" [emphasis in original]. In which Beun-Chown (1995:23) states:

"Vindicator" logs on. Hailing from Texas, he says he's something of a Greek god and offers to have sex with everyone.
Then We come across another Netter (sic), under a discussion entitled "Children".
He argues passionately that paedophilia is okay and when criticised replies: "You may have a problem with paedophilia, but I don't. And anyway, who's going to stop me?"

The most influential piece of this type, Time Magazine's cover story of 3 July 1995 "Cyberporn" can be seen as the major catalyst for a prolonged period of community concern that invoked a swift legislative response to the problem of regulating the Internet. The article, based on an American study, presented some stark (and later factually and methodologically criticised) statistics about the availability of "hard core" pornography via the Internet. The impact of the article was to fuel calls for regulation and present Internet services as dominated by pornographic material.

Some media reporting of the Internet at this point in time does conform to the criteria of influences in the creation of a moral panic outlined by Goode and Ben-Yehuda. Certainly, some of the reporting of the problems associated with the increasing popularity of Internet services were alarmist, sensationalising problems associated with computer networking and drawing in elements of traditional fears and concerns (the moral corruption of children). The mainstream media, lacking any substantive evidence to accompany these reports was forced to develop imagery sufficiently sinister to match the dire warnings that accompanied them. Image 5-1 and 5-2 are illustrative of this approach. This first image, taken from Time's "Cyberporn" issue, illustrates a man luring a child into an ally with a computer displaying a lollipop, the second, taken from an opinion piece in the Age shows a large hand coming from a computer monitor masked in shadows, in the foreground lies a child's toy bear. What these two pieces have conveyed is the conversion of the threat of the Internet from the moral corruption of youth, to that of physical stalking.

221 Other reports include: "Porn peddlers hit infobahn" (West Australian, 11/4/95); "Warning on Internet after blast" (Advertiser, 4/5/95); "Darkside of the Net" (SMH, 4/9/95); "Dangers of a window without curtains" (Age, 26/4/96); "The new stranger danger on the Net" (Age, 14/5/96); "Paedophiles on Net 'out of control'" (Daily Telegraph, 29/5/96); "Nasties on the Net" (Age, 17/7/97).


223 What the article did was to edit down the study undertaken by Rimm. The initial research was undertaken using a non-Internet based service (a Bulletin Board System), thus the implicit linking of the pornographic services with "Cyberspace" (a term increasingly being used to describe the Internet, rather than Bulletin Boards) tended to misrepresent the study as uncovering an overwhelming amount of pornographic material on the Internet itself, rather than through commercial direct-line systems.
What is not clear, however, is that the sensationalism presented by the mainstream press is illustrative of a true moral panic. While Alan Wakeley's\textsuperscript{225} "The New Stranger Danger on the Net" (the Age, 14 May 1996) and "Dangers of a Window Without Curtains"\textsuperscript{226} (the Sydney Morning Herald, 26 April 1996) can be seen as the work of "moral entrepreneurs" (Goode and Ben-Yehuda, 1994:80), the events of 1996 can at best be seen as an attempt to mobilise public concern and outrage. This can be seen in the limited amount of negative press coverage as a total of news stories about the Internet found in mainstream media of the time (see Appendix 5.3), where a true panic would be accompanied by disproportionate amounts of sensationalised media coverage. The fact that legislation, such as that proposed by the New South Wales state government, was not introduced at this time, attests that public demands for action may not have been sufficient for legislators to feel impelled to act. In the case of the New South Wales legislation, the STOP! campaign mounted by groups such as Electronic Frontiers Australia served to counter perceptions of near universal demands for action.

\textit{(III) The Rise and Fall of the Communication Decency Act in Australia}

Given the state of the political debate at this time, it is interesting to compare the relationship between Australian attempts to regulate the Internet in 1995–6 and similar events that preceded these in the United States. While a number of countries (Germany, France, Singapore) undertook some form or regulatory approach to Internet content during this period, the \textit{Communications Decency Act} of US Senators Exon and Coats was the first systematic attempt to regulate Internet content (Weckert and Adeney, 1997:43), and more importantly, one stemming from the home of the Internet itself. For policy makers, intent on developing a solution to the problems associated with regulating this new media, it is unsurprising that the regulatory framework proposed by Exon and Coats would come under review, both through formalised analysis (\textit{Regulating the Internet: American Civil Liberties Union v. Reno and other Recent Developments} - NSW Parliamentary Library Service, 1996), and through normal mass and select media coverage.

\textsuperscript{224}Reprinted with permission.

\textsuperscript{225}Allan Wakeley is the Australian representative of the Religious Alliance Against Pornography (RAAP), an inter faith organisation formed in the United States.

\textsuperscript{226}Moral Entrepreneurs are individuals who are fundamentally dissatisfied with some appearance of deviance and who seek to enact or enforce rules that limit, prevent or punish it.
While the decision to defer the introduction of regulatory legislation in 1996 ostensibly stemmed from dissent among Australian Attorneys-General (most notably Liberal Gary Humphries of the Australian Capital Territory who described the NSW proposal as "as difficult as banning people from throwing messages into the ocean in bottles"), attempts to regulate the Internet in Australia drew upon experiences in the United States in a number of ways: Through the exchange of information between interested groups and individuals in the two countries, via media and other news reporting of attempts to regulate the Internet, and through the establishment of local branches of American and international associations, such as Electronic Frontiers Australia, an Australian version of the original Electronic Frontier Foundation established in the United States in 1990 by Mitchell Kapor and John Barlow. That these organisations, with similar aims, beliefs and concerns, should communicate about policy developments (and inherent in this is the transmission of values, beliefs and ideological views of government and the state), is of no surprise. As Moon (1994:123) states, policy learning and political systems play a role in the lessons transported across jurisdictions. A similar observation of the way politics is facilitated using computer networks is made by Resnick (1998:60), who sees the Internet as a speedy and convenient mode for political communication, especially for groups that may be small, have limited political expertise and be financially impoverished.

In this case, where interested individuals and organisations centre around the use of such an important communications tool as the Internet, it is not surprising that learning across jurisdictions is highly visible in the discourses articulated by Australian interests. Thus, in articulating its position against proposed NSW legislation, Electronic Frontiers Australia (1996b) stated:

> It was described as far worse than the controversial U.S. CDA law which was recently declared unconstitutional by a U.S. District Court.

[emphasis in original]

Additionally, Schilling (1998) argues that Religious Alliance Against Pornography's submission to the Senate Select Committee was based on a similar one used by the US based Christian Coalition, certainly the case studies and statistics are drawn from American sources only, for example (RAAP, 1995):

> According to a study by our international office in Washington DC, in an average week literally thousands of images of hard core pornography are traded via Internet's Usenet news groups.

What is interesting to note is the way in which groups, ostensibly based in Australia, debating an entirely local reaction to the phenomena of the Internet, have included in their submissions and discourses arguments, statistics and anecdotes from the United States. While this can partially be explained by considering Resnick's conception of Politics Using the Internet, another view can be sourced from Postman's (1993:13) view of the inherent ideological bias of tools. Postman argues that all technologies have "a predisposition to construct the world as one thing, rather than another, to value one thing over another, to amplify one sense or skill or attitude more loudly than another.".

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227 10 July 1996.

228 Larger, more established groups have utilised the Internet in a variety of ways, but, in general, have taken longer to adapt their strategies and political activities to the online environment. It is not surprising that groups specifically concerned by the technology, like the EFF and EFA, are early adopters of the technology as core elements of their systems.

229 The nine examples included in the submission relate to: 1. Pittsburgh, 2. Boston, 3. Mexico, 4. Denmark, 5. Switzerland, 6–8. U.S. general, 9. New Zealand general. Additionally the key appendix (iii) is a restatement of "Pornography's Effects on Adults and Children" - a study reported to the 1986 U.S. Attorney General's Commission on Pornography by Dr Jennings Bryant.
this view, echoing the views of McLuhan\textsuperscript{230} and even Wittgenstein\textsuperscript{231} regarding the role of the medium in shaping the thought and action of the individual. Postman can also be read in the way that discourses about technology can encapsulate cultural values and beliefs (in this case ideological views about the role of the state and freedom of expression) that are transported beyond their home country and culture.

In one way this is related to debates about the "Americanisation" of the Internet\textsuperscript{232}, or more correctly, the use of the Internet to spread American culture and political values. On the one hand this is championed by writers like Hauben and Hauben (1997) who see the Internet as a democratising force, capable of overcoming political restrictions on the spread of political information and as a focal point for social and political interaction, but on the other it is dismissed by writers like Negroponte (1996), who see the Internet as tolerating a wide range of political, cultural, and language differences in a Network of networks, where diverse views and social practices can be accommodated\textsuperscript{233}. Rushkoff (1994:235) has described the Internet as a perfect example of the \textit{American} pioneering spirit. However, that the Internet is seen as an extension of American media and cultural expansion stems from the disproportionate amount of American content and number of American users on the Internet, a statistic related to the initial development of the Internet in the United States (with smaller access through Europe). As these proportions are declining as increasing numbers of users come online, the view of the Internet as intensely American, may take some time to decline.

While Negrine and Papathanassopoulos (1996) argue that the concept of Americanisation in terms of the expansion of American-style political communication (if there is such a phenomena) is an overstatement of the impact of American culture on the political life of nations like Australia\textsuperscript{234}, it is important to realise that the pervasiveness of the US \textit{Communications Decency Act} debate shaped the way that Australian Interest groups viewed the regulatory development of the NSW legislation. Concerns from the United States filtered into Australia (through tools such as the Time Magazine Cyberporn Issue), as well as statistics and anecdotes generated to support the arguments of both the pro- and anti- regulation forces. In attacking (and eventually overturning) the CDA\textsuperscript{235}, American activists provided some of the dialogue of free speech and censorship for their counterparts in Australia, in much the same way as those urging regulation provided the dialogue of child protection and community values to like-minded groups in Australia.

\textbf{The Phoney War: The National Framework for Online Content Regulation}

When the Chairman of the Australian Broadcasting Authority spoke to the New South Wales Society for Computers and Law in November of 1996, Peter Webb (1997:27) noted that the word "censorship" had been removed from the title of his speech. This

\textsuperscript{230}McLuhan (1962) in \textit{The Guttenberg Galaxy}, states "technological environments are not merely passive containers of people, but active processes that reshape people".

\textsuperscript{231}In \textit{Philosophical Investigations}, Wittgenstein states that "language is itself the vehicle of thought".

\textsuperscript{232}Which itself is tied in with wider debates regarding the spread of American culture more generally.

\textsuperscript{233}Interestingly, both arguments stem from writers who can be classified together as advocates of the Internet.

\textsuperscript{234}Nagrine and Papathanassopoulos argue that modernisation is more significant in reshaping political communication, and that the similarities between American political communication technique and those found in other nations is a complex feature of process learning (albeit often from US based firms) and the adaptation to modern technology and communication tools.

\textsuperscript{235}Though, several U.S. States continued to adopt legislation similar to the CDA (New York Times, 1998).
reflected the state of the debate immediately after the release of the ABAs Investigation into the Content of On-line Services, which (Koomen, 1996:2–3) called for the introduction of voluntary codes, monitoring and complaints procedures by the ABA and the use of content labelling technology and general education. This task, undertaken in the midst of a political conflict in New South Wales and the wide implications of the success and later down fall of the Communications Decency Act had managed to placate the Internet industry who had began to draft their own voluntary codes of conduct (the Internet Industry Association drafting three versions of their code by early 1998), in anticipation of a self-regulatory scheme backed by government oversight (Department of Communications and the Arts, 1997b) and possible legal sanction (Lambert, 1997:4). This approach, while essentially endorsing some of the main thrusts outlined in the BBS Task Force report, explicitly recognised the inherent difficulties in attempting to regulate Internet services because of its fluid and disbursed nature (Australian Broadcasting Authority, 1996:9) and the integration of public and private communications tools within the overall Internet media (19).

What this report revealed was a more detailed understanding of the technology behind online services and the limited capacity for Internet Service Providers to monitor both the content of their networks and the age of users. Whereas the draft NSW legislation (1996) was extremely vague in defining who was the target of their legislation (both defining an online service as the computer network owner and content provider as one individual or corporation) the initial report of the ABA established definitions for the wide array of participants in the process of computer networking. Thus, while the draft legislation had created concern among users and industry because of its seemingly poor grasp of the practical and technical considerations underpinning any regulatory response, the exhaustive nature of the ABA report served to demonstrate to the online community that government could grasp the implications and uniqueness of the new technology.

This period was not entirely without conflict as users and industry groups clashed with the Senate Select Committee on the Regulation of Computer On-line Services over their June 1997 report that included recommendations for increased criminal sanctions and random police inspections of computer systems (Creedy, 1997:31). This report retained much of the same limitations of the NSW draft legislation, with recommendations that placed responsibility for online content back into the hands of ISPs. What is clear is that the Committee drew upon media paradigms from current legislation, such as the Broadcasting Services Act236 as the basis for the development of industry codes of practice backed by legal sanction. This approach, drawing upon existing regulatory models in the process of developing an approach for new technology mirrors the introduction of the Broadcasting Act itself, where the approach taken for radio was subsequently applied to television. While this model served for the transition between audio broadcasting and video broadcasting (based on the similar technological foundations of the two technologies—broadcast electromagnetic radiation—and the way in which both services operated at the practical level), the decision to classify online services within the broadcast paradigm ignored the variety of applications to which computer networks were being put. Additionally, where the establishment of radio and television regulation preceded the introduction of the technology (and directly shaped the characteristics of the medium and the industry that supported it), post hoc regulation in this case was bound to run into established interests across a wide economic and social spectrum. This approach, therefore, failed to create any direct action on the part of the new Coalition Government, and the Committee reports were overshadowed by the seemingly progressive view taken by the ABA237.

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236This, however, was criticised by the ALP minority report.
237The ABA report also demonstrated its basis in the broadcasting paradigm, with consideration of content issues, such as the encouragement of Australian content for the Internet.
In mid 1997, therefore, the Federal Government announced a detailed set of principles for the regulation of content on the Internet in Australia. These principles reflected most of the recommendations of the ABA report, including a complaints-based mechanism for material under the control of ISPs, the use of a self-regulatory model enforced by the ABA, and an emphasis on community education and the development of domestic content labelling technology for Australian conditions. The framework presented a very light-touch approach, focusing only on material that would be considered illegal within the Australian jurisdiction (what the OFLC would classify as "RC" or refused classification). Essentially the government has avoided the question of restricting access by Australians to illegal and pornographic material hosted overseas, the vast majority of "questionable" material travelling via the Internet. While the Internet Industry Association did not favour ISPs being required to determine the acceptability of material located on their servers, the general thrust of the announcement was one that industry could abide by (Cousins, 1997), especially given the favoured role industry associations would play in developing the codes of practice that would form the core of any regulation with which local ISPs would have to comply. Additionally, given the requirement for some form of take down procedure to be included within industry codes of practice, the Industry was looking forward to a clarification of their legal liability when removing content placed on the Internet by one of the users, a legal clarification that the legislation would include.

A Legislative Muddle: The Bill, the Backlash, and the Backdown

On 19 March 1999, nearly a year and a half after the release of the government's principles for Internet content regulation, the Minister for Communications, Information Technology, and the Arts announced his intention to bring a Bill before the Parliament that would regulate access to material rated R, X, and Refused Classification under the existing OFLC standards. Additionally, the Minister announced (Alston, 1999a):

The regime also provides for self-regulatory codes of practice for the online service provider industry, to be overseen by the ABA. These codes of practice must include a commitment by an online service provider to take all reasonable steps to block access to RC or X material hosted overseas, once the service provider has been notified of the existence of the material by the ABA.

It was this announcement that would spark widespread criticism, and action by industry and Electronic Frontiers Australia (1999b). Essentially the government had announced that it would be requiring some form of Internet filtering based upon an official blacklist of restricted sites maintained by the Australian Broadcasting Authority. ISPs would not be simply removing material that was found to be inappropriate, but would be proactively censoring Internet content.

The timing of the release of the announcement was such that almost the entire board of Electronic Frontiers Australia (EFA) were soon to be in Canberra meeting with bureaucrats on related matters, however the organisation was unable to meet with the Minister, with the Internet Industry Association (IIA) the only group able to gain access. The Executive Director and Chair of the IIA met with Senator Alston and his principle adviser on Information Technology within days of the Government's announcement, seeking clarification on some of the issues of the announcement and stating their objections to the proposed content blocking provisions of the Bill (DoCITA, 1999a). Thus, while the industry where happy that the government had managed to avoid becoming technically prescriptive in developing the regulatory framework, the organisation expressed the view that the proposal would be expensive for ISPs to operate, requiring investment in new equipment to administer the provisions, and would

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238 Peter Coroneos and Patrick Fair.
239 Carina Chapman.
be largely ineffective, given the dynamic nature of Internet content and the ease with which censorship methods (regardless of their point of application along the Internet "chain") could be evaded using existing technology.

The Government's approach was substantially different to that proposed by the government prior to the 1998 election, however indications that the Minister has a more stringent regime in mind were available even as the government was drafting the 1997 framework principles. In July of 1997 on ABC radio he stated (DoCA, 1997):

*I think we can also have a regime that puts a secondary onus on service providers where it's brought to their attention that material is coming in from offshore that is offensive or illegal.*

which may indicate a relative difference of opinion between the Minister and the bureaucrats charged with drafting the formal policy documents. Certainly Government policy on the issue of Internet content was soft, to say the least, with the Coalition having no guiding principles in their 1996 election policy, and their 1998 election policy simply reiterating the key principles of the 1997 framework (Liberal and National Parties of Australia, 1998:14–5). Additionally, the Government's stated position was different to that recommended in the most recent report of the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (1997:i), that had called for the use of criminal sanctions for the possession, demonstration, advertising, or request of material that would be Refused Classified or in a category that would be considered likely to cause offence to a "reasonable adult" under the *Classification (Publications, Films and Computer Games) Act 1995* (Parliament of Australia, 1995b).

Leading towards the introduction of the legislation, the Minister went on the offensive, arguing that action was required because of community concern regarding the nature of Internet content and the pervasiveness of the Internet as a medium in Australia. Additionally, he moved to cast the proposed legislation into a more positive light, arguing that the government was not moving to "censor" the Internet, but simply "regulate" it. In an extended article for the Australian he stated that (1999b:55):

*This announcement was greeted by parents with relief; by extremist, freedom-of-speech-at-all-costs groups with claims of censorship; and by the Internet Industry with concern whether the proposed regime would be technically feasible and would impose onerous burdens, thus inhibiting the development of the online economy ... The extremists are*

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240 While the Internet acts in a network manner, most users effectively receive information at the end point through a chain of connections from their computer via modem to an Internet Service Provider connected to a "Backbone" carrier who provides access to Internet bandwidth. Content blocking can occur at any of these levels: on the users "desktop" (using filtering software that checks the information received from the ISP against a blacklist, a "whitelist", or through the use of other filtering technology, such as a list of refused words); at the ISP level; or at the Backbone level. However, some ISPs do use multiple providers of bandwidth (such as a combination of Telstra feed and satellite service) making the "chain" analogy not universal.

241 Such as the movement of restricted material to new Internet addresses (URLs), the use of specialised web-servers that masked the user and the origin of the material, sending Internet material within other "legitimate" packets (tunnelling), encrypting information, using non-standard port numbers and the use of email resenders (CSIRO, 1998).

242 Which had become widely referred to as the "porn committee".

243 Which would include: Refused Classification material (paedophilia, sex, crime, drug abuse or addiction, cruelty, violence or revolting or abhorrent behaviour offending against the standards of morality); Category 2 restricted publications (graphic sexual depictions, revolting or abhorrent phenomena); Category 1 restricted publications (explicit nudity, described or implied sexual activity between consenting adults, violence); X rated films (explicit sexual depictions); and, RC rated computer games (promotion or instruction in crime or violence).
entitled to their views. But if their arguments are carried to their logical conclusion, there would be no protection online for children from makers of snuff movies, paedophiles, drug pushers and other offensive or disturbing material.

While the use of terms like classification and regulation is not a new means of avoiding calling Australia’s censorship system a "censorship system", the Minister clearly had his political strategy aimed at presenting the legislation as a means of protecting children from criminals and pornographic materials. Those who failed to support the government because of free speech concerns were simply extremists who should be discounted from the political debate.

In reality the Broadcasting Services Amendment (Online Services) Bill 1999 would be everything that the free speech "extremists" would oppose. The legislation included the mandatory use of some form of content blocking at the ISP level for all Internet accounts, regardless of whether the user would be a child, or a childless person. By utilising the Office of Film and Literature Classification as the means of judging the acceptability or otherwise of any material, the Bill was squarely aimed at the portrayal of violence, incitement to engage in criminal activity, and erotic and pornographic materials (Office of Film and Literature Classification, 1999), while the Minister's statements about criminal activity utilising the Internet were not matched in the development of more specialised policing needed to catch individuals (Office of Film and Literature Classification, 1999), who performed these activities online. However, the effect of the legislation on groups like Electronic Frontiers Australia was to produce the criticisms foreshadowed by the Minister, with EFA calling the legislation "draconian" (www.efa.org.au), and even bringing the "mainstream" libertarian organisations into the debate for the first time (O'Gorman, 1999). In pre-emptively attacking the EFA, stating (Alston, 1999d):

\[ Certain \ elements \ of \ the \ Internet \ industry \ are \ today \ reporting \ as \ threatening \ to \ "disrupt" \ the \ governments \ Internet \ content \ regulation \ regime \ ... \ Any \ attempt \ to \ interfere \ with \ these \ protections \ will \ have \ the \ effect \ of \ making \ it \ easier \ for \ paedophiles, \ drug-pushers, \ racists, \ and \ criminals \ to \ pollute \ the \ Internet. \]

the Minister managed to provoke them into reacting in the way he anticipated. The next day the new Executive Director of the EFA, Darce Cassidy, fired off his rejoinder calling the Minister either "naive or stupid" (Electronic Frontiers Australia, 1999a). Politically he was neither and the EFA had played straight into the argument presented by the Government. By illustrating that the EFA were unwilling to engage in debate over the details of the Bill, the Government could be justified in ignoring the organisation. If the EFA was not welcome in the Ministers office before, they made sure they wouldn’t be received at any time in the future.

During this debate the Government, with support from independent Senators and the Opposition, moved to re-establish the Senate Select Committee on Information Technologies (Parliament of Australia, 1999a). This Select Committee was essentially an extension of the Community Standards Committee, having been convened in 1998 to examine self-regulation of the Internet, but failing to report because of the intervening election. The revised committee was ostensibly established to finalise the outstanding report, and was initially moved without any guiding references. However, with the first

244 As based on the R, X and RC ratings utilised by the Office and specified in the legislation.
245 The difference between the distribution of X rated material and snuff films is that the latter, if available at all (and no evidence has yet been found to support the claim of the availability of snuff films on the "public" Internet), are largely distributed within highly secretive private networks of individuals who use sophisticated encryption technology (Information Society Commission, 1998) and social vetting to ensure their identities remain secret because of the fear of prosecution.
246 Although they are not explicitly named in the original article or subsequent press release.
Australia’s Online Censorship Regime

reading of the Bill on April 21, the role of this Committee was quickly amended to review the legislation and report to the house by May 11 (Parliament of Australia, 1999b). The speed with which these changes occurred was rapid, with meetings of the Committee agreeing on longer reporting dates just days before the Government changed it position, forcing the Committee to sit and report within weeks\(^{247}\) (Parliament of Australia, 1999c). Certainly the timing of the legislation was critical, as the Bill in its current form was highly unlikely to meet with approval from the Democrats following the change of Senate composition (Stott Despoja, 1997; Australian Democrats, 1999), and Senator Brian Harradine’s position on Internet content regulation clearly favourable to quick action in some form (Network Ten, 1999). Therefore the Government had to move before the Independent Senator was no longer holding the balance of power.

The operations of the Senate Select Committee on Information Technologies were rapid, and many of the presenters had only draft submissions ready for the Committee by the time of its first meeting date on April 27\(^{248}\). With the Government Bill on a strict legislative timetable before the Committee, the Inquiry was less about examining the substantive merits of the legislation than an extension of parliamentary debate over the Government’s position. Government members used the forum to attack opponents to the legislation, and the Labor (and to some extent the Democrat) Senators took the opportunity to attack the Bill, the motivations of the Government, and the conduct of the inquiry itself\(^{249}\). In calling mainly technical and commercial witnesses highly critical of the approach taken by the legislation, the hearings quickly deteriorated into a hostile debate between Government Senators (mainly Senator Tierney) and some of the witnesses (Parliament of Australia, 1999d; 1999e)\(^{250}\), with the Opposition using the forum to highlight every negative technical and commercial flaw with the proposed Bill. The results of the Committee process, tabled on May 11, served simply to reiterate the basic political composition of the Committee, with Government Senators recommending the Bill be approved without amendment, Labor and the Democrats criticising the Bill as poorly drafted and ineffective\(^{251}\), and Senator Harradine stating support for the legislation, while criticising the relative weakness of the provisions, and the suitability of the Australian Broadcasting Authority as the appointed regulator (Senate Select Committee on Information Technologies, 1999).

Regardless of the Committee report and the Ministers statement that the Bill would not be substantially modified following the decision of Senator Harradine to reject the Governments GST package (Yiacoumi, 1999b)\(^{252}\), the Government moved a series of amendments in the Second Reading Committee process\(^{253}\). While the majority of the amendments moved simply to clarify elements of the Bill and removed the ambiguity

\(^{247}\)As reported by Senator Mark Bishop (ALP) to the Senate Chamber.
\(^{248}\)As the Committee met during Senate sitting days, with hearings mainly conducted at night.
\(^{249}\)Mainly the speed with which the Committee was required to report.
\(^{250}\)Especially the Australian Computer Society (Andrew Freeman), Electronic Frontiers Australia (Greg Taylor), and the Australian Libraries Information Association (Jennefer Nicholson).
\(^{251}\)In two separate dissenting reports.
\(^{252}\)Government attempts to influence the Senator’s vote in considering the legislation was common media speculation surrounding the introduction of the legislation.
\(^{253}\)In fact the government moved two sets of amendments to the Bill. One set [ref.: Parliament Document ER239], containing the concessions to industry were prepared in time to have a supplementary explanatory memorandum printed prior to the their tabling in the Committee of the Whole, and the second [ref.: Parliament Documents ER244, ER246–8] being provided on loose sheets without memorandum.
surrounding some of the provisions of the law, the amendments included a number of significant concessions to the Internet industry that would effectively change the entire character of the proposed law. The significant changes were threefold: First, the Government modified the time required for ISPs to act on the receipt of a formal take down or blocking notice from 24 hours to by 6pm on the next business day (a concession to small ISPs who do not maintain daily supervision of their network); Second, in requiring content blocking of overseas material, the Bill incorporated the need for the ABA to consider the technical and commercial feasibility of the action and, Third, the amendments included the capacity for the ABA to provide ISPs with exemptions from mandatory content blocking of overseas site should they utilise an "designated access-prevention arrangement", either on a case by case basis, or where the Industry has an established code of practice incorporating a technology that meets with the approval of the ABA. This final modification of the legislation was a significant change in the effect of the Bill, allowing ISPs, through a code of practice to have existing content blocking arrangements (such as America Online's Parental Controls, or the provision of pre-filtered Internet bandwidth offered by Clareview Internet) incorporated into the code. By not specifying blocking at the ISP level, therefore, end-user Internet filtering products (such as NetNanny, SurfWatch, CyberSitter, or CyberPatrol) could be included in the codes of practice, providing ISPs with a means of meeting the legislative requirement of the new law without having to engage in costly installation of proxy servers to filter material, or the purchase of upstream filtered bandwidth from a larger competitor.

These amendments were made in consultation with both the Australian Information Industry Association (who specialise in representing companies who supply computing equipment) and the Internet Industry Association (which represents ISPs), and were aimed at blunting the direct commercial loss associated with the content of the original Bill and some of the concerns raised about its effects on electronic commerce (Upton, 1999:94). While the government also explicitly excluded "ordinary" electronic mail from censorship, this amendment was never going to satisfy the libertarians because of their fundamental opposition to the concepts underlying the legislation. In essence, the Government had moved dramatically from their original position on the legislation, bowing to the weight of pressure from the industry on the basis of purely commercial concerns, while ignoring the free speech groups who were unwilling to engage in the dialogue of amendment, rather than blanket opposition. Moreover, the Labor party were unwilling to oppose the Bill outright, continually supporting the intent of the legislation, while attacking its content and moving amendments of their own. Calling

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254 Which was discussed in the original Bill's explanatory memorandum but not included in the Bill itself.
255 Based on the improbable requirement for the technology, ISP and individual user(s) registering and being provided a written authorisation by the ABA.
256 Which includes restrictions to a white site (material guaranteed only for children that is vetted by the company) and the option of filtered feeds or unfiltered feeds depending on the user of the product (Ritz and Veriga, 1999).
257 Software that runs on the user's desktop, filtering Internet content against a list of banned sites maintained by the company, or through the exclusion of pages containing certain words, or a combination of both.
258 However at the beginning of 1999 the IIA and Australian Interactive Multimedia Industry Association (AIMIA) had signed a memorandum of understanding to merge, providing the IIA with an organisational structure that provided for presentation around Australia, and AIMIA with a Canberra-based lobbying capacity.
259 Both in terms of the loss of investment within Australia by international firms utilising network technology and the effect of service degradation on commerce over the Internet (e-commerce).
260 However the Bill specifically included Newsgroups and may cover mailing lists.
this strategy "damage control" (Parliament of Australia, 1999:5059), the Opposition were unwilling to reject the Bill, possibly because of potential political damage of being painted as both pro-pornography and anti-children. Indeed the Leader of the Opposition, Kim Beazley had stated on Perth radio station 6PR that the uncontrolled growth of information on the Internet had probably contributed to a massacre of school children in the US state of Colorado. He went on to say (22/4/99):

There are opportunities now for people to put out good and bad propaganda, to be encouraging people to do dreadful things, to become totally egocentric, totally unprepared to assist their community with decent relationships.

This statement may indicate mixed feeling about the Bill within the Opposition shadow cabinet. In the end, however, under the spectre of the Democrats negotiating with the Government on the GST and the full-sale of Telstra, the Opposition was never put to the test. Media coverage of the legislation was contained largely to the computer sections of the daily papers. On Thursday 27 May, the Broadcasting Services Amendment (Online Services) Bill was passed by the Senate with Senators Harradine and Colstons' support. Labor, the Democrats, and the Greens opposed the Bill. Over the following two days, Electronic Frontiers Australia mounted street protests in Perth, Sydney, Adelaide, and Brisbane as the culmination of their 1999 STOP! Campaign (see images 5-3–5-5, EFA's Web protest advertisements)

Images: EFA Internet Protest Images

5-3

5-4

5-5

source: EFA

Because of the speed with which the legislation was pushed through the Parliament, the public campaign organised by the EFA failed to develop until after the legislation had passed its acid test: the Senate. While the organisation managed to get between 500–1000 people onto the streets in Perth, Adelaide, Brisbane, and Sydney, and co-ordinated a number of other innovative protest strategies at this time, the speed

261 These images have been slightly modified to allow them to be readable when reproduced in black and white.

262 The EFA also organised a public lecture on the Bill in Melbourne, attracting about one hundred and fifty people.

263 Many of the protest actions were organised through EFA mailing lists, such as the stop-censorship@efa.org.au list and the action99@whatever.net.au list (for the Brisbane protest), however many of the participants were not directly members of the EFA.

264 Including sending copies of the book Orwell's 1984 to Senators, and developing a CGI redirection for users of .gov.au servers that redirected them to pages complaining about censorship.
with which the government moved the Bill from the Senate Committee to the lower house was too fast for the grass-roots organisation to keep up. Between the government's announcement to legislate and the introduction of the legislation, potentially concerned users were simply not interested enough to get active, needing, perhaps, the tangible document of the Bill against which to rally. Given the government had been announcing that it would act on a regular basis for nearly two years, it was not surprising that a small, relatively disorganised group like the EFA would be unable to become fully active in such a short period of time.

Conclusion

By the period 1997–8 regulatory issues affecting computer networks had matured to the state where a number of other issues were beginning to become prominent on the agenda of decision making regarding computer networks. With the Federal Government's establishment of the National Office of the Information Economy, reports from the Australian Tax Office on Taxation, and Internet Commerce, and the release of the Electronic Commerce Expert Group report, it is clear that the development of a national approach to computer network and content regulation had been the substantial focus of government attention. This policy consideration served, in a period of less than ten years, to progress the regulation of computer networking to an ad hoc collection of legal rules and sanctions, through a process of policy development and learning by a number of government departments and agencies sufficiently technically capable to engage in developing regulation to meet the needs of the new media. Through engagement with industry and adoption of Internet technology within government departments, the level of technical understanding rose dramatically from 1993 onwards, leading industry finally to believe that bureaucracy might be able to "get it" when approached about specific technical issues facing the industry.

This level of understanding and agreement faltered, however, within government. Differences of opinion and understanding between the key bureaucratic agencies, and the Minister for Communications, Information Technology, and the Arts were evident. In attempting to move irrespective of the hard won consensus of the bureaucrats and key industry groups, the Government only managed to intensify conflict over Internet content regulation and be forced into a position where the passage of the Broadcasting Services Amendment (Online Service) Bill through the Parliament was marked by unnecessary conflict and hasty amendment. Essentially, the final legislative regime for Internet content in Australia reflected the position agreed between the Department of Communications, the Australian Broadcasting Authority, and the Internet Industry Association. However, the legislative tool to bring about this "light touch" co-regulatory system was politically blunt and administratively complex, containing potential areas of redundancy and inefficiency should the industry move to universal self-regulation. In adapting existing regulatory models for narrowcast and broadcast media contained within the Broadcasting Services Act, the government side-stepped the very real difficulties associated with regulating the Internet in favour of a regulatory model that had been considered unsuitable to new media in the past. The broadcasting and narrowcasting approach, focused exclusively on the transmitter of content, was unable to include both the desire light industry regulation with a radical approach to regulating Internet content. The Government, unable to satisfy any of the stakeholders in the debate, settled finally for a regime that, while technically complex, offered little concrete controls on the content of computer networks.

While the EFA has very strict rules relating to its membership, from the 1998 treasurer's report it is possible to estimate the membership of the organisation at about fifty.
III

ANALYSIS
Chapter Six
Results of the Advocacy Coalition Framework

Introduction
Methodological Introduction
Data Base
The Coding Process
Intercoder Reliability

Data Analysis and Results
The Pre-issue Period
Formation of the Policy Subsystem
Stabilisation of the Advocacy Coalitions
The "Compromise" Period
The Legislative Conflict
Subsystem Distribution circa 1999: Implications for the Future

Conclusion

Introduction
This chapter marks the beginning of the case study analysis. Using the theory and methodology introduced in Part I for the investigation of the case presented in the last chapter, this Part applies the research methodology to explain the political dynamics at play in shaping events of the case. Thus, the analytical models will be used to explain why certain political outcomes occurred (in the traditional way in which political science asks "who gets what, when, and how?"), but also to describe the activities of subsystem members, and explain the relative lack of observable influence on policy decisions exercised by some individuals and groups. To undertake this explanation, this chapter examines the case study using the theory and methodology presented by Paul Sabatier, while chapter Seven examines the case study from the research perspective of Rod Rhodes. These two perspectives will allow for a comparative analysis of the findings in Chapter Eight, highlighting areas where either method lacks clarity, and providing the empirical basis of our theoretical critique and reformulation.

The focus of this chapter, the Advocacy Coalition Framework (ACF), emphasises the role of beliefs and values in determining the relationship between organisations and individuals in the arena of political debate: the policy subsystem. Essentially, the subsystem is a conceptualisation or abstraction of the universe of groups and individuals involved in the policy-making process, and the system in which politics is mediated, policy interacts with the wider environment, and participants engage in strategic action. Sabatier's policy subsystem is dynamic and incorporates a consideration of temporality and the processes of change. The movement of groups and individuals within and between coalitions can show the impact of internal political strategies, externalities, and lesson learning in the political context. Therefore policy making and change is not simply a process of exercising power over others, but has concern for the kind of political and social outcomes highlighted by implementation research (the difference between policy outputs and policy outcomes).

For Sabatier, by determining how groups within this policy subsystem act in loose "advocacy coalitions"—promoting and defending their preferred policy alternatives and attacking, neutralising, or assimilating views of their rivals—it is possible to determine how policy is made through connecting subsystem members' ideas with their motivations, their access to resources, and influence upon key decision makers (sovereigns) who control implementing agencies and strategic decision points. These
sovereigns are holders of institutional power or legal authority (Ministers, senior bureaucrats, agency directors), and are members of the policy subsystem because they are sources of government power and targets of advocacy coalitions' guidance instruments. Sovereigns can be persuaded though information sharing and learning (by altering elements value system in line with that of the coalition) or via a range of political strategies (guidance instruments) that can be employed by subsystem members to influence their decision (traditional political pressure strategies, for example).

In operationalising this theory, therefore, this chapter examines the development of the policy subsystem for computer network content regulation in Australia. As a new policy area, the case study is well placed to examine how subsystems arise, and how competing advocacy coalitions form within it. In this case study we see that issue formation does not necessarily entail the development of a policy subsystem, with the consideration of computer crime in 1987 and 1988 a “false start” in terms of developing a continuously-engaged set of policy makers. With the recurrence of the issue on the political agenda in the early 1990s, the policy subsystem quickly develops, and continues to accept increasing numbers of active groups and organisations (reaching a high point around 1996 when a number of political fora exist for the articulation of views on the issue). What we can see is that these coalitions quickly stabilise, but do remain fluid and reactive to the wider political climate. As the issue becomes less intensely contested following the Australian Broadcasting Authority (ABA) Inquiry report and the release of the 1997 National Principles document, some groups moderate their positions, drifting from other coalition partners and even constituent members. This "drift", however, is limited, and with the resumption of intense debate in late 1998 and early 1999, these groups tend to revert to their original positions. Overall, we can see that the debate has tended to focus around three relatively stable coalitions: one advocating a high level of regulation and intervention; one a moderate level of self- or co-regulation; and, a third opposed to additional government intervention in the area.

**Methodological Introduction**

As introduced in Chapter Four, the Advocacy Coalition Framework utilises the content analysis of documentary sources to develop a numerical "portrait" of the policy-oriented views and values of groups and individuals within the subsystem. These data sets can be compared using multivariate analysis to produce diagrams (dendrograms) illustrating the relationship between groups' and individuals' value systems at particular points in time (Sabatier and Jenkins-Smith, 1993).

What these dendrograms show is the relationship between different organisation's value systems, clustered hierarchically (Saber, 1984:350; Afifi and Clarke, 1984:391–400). Groups that share substantially similar views to each other a linked by a line, then this cluster is linked to the next closest group. Thus, the closer the link between groups on the dendrogram, the closer their overall values and beliefs. By determining a number of clusters within these relationship maps (i.e. setting a point on the dendrogram at which clusters stop being joined together) the researcher can identify clusters of groups with substantially similar views (either based on deep core beliefs and fundamental values, general policy preferences, or specific desires and preferences about individual elements of a preferred policy position). It is these clusters that Sabatier calls "advocacy coalitions": formally and informally working towards achieving similar aims and outcomes within the political process.

While the remainder of this chapter discusses the findings based on this research methodology, three specific methodological considerations need to be discussed (in addition to the general limitations of the method presented in Chapter Four), these are: What is the source of the data sets?; Is this source reliable / applicable to the research problem?; and, How reliable is coding of this data into a numerical profile?
**Data Base**

To produce the dendrograms used by the ACF, Sabatier and Jenkins-Smith recommend congressional hearings to collect evidence over time. These sources, they argue (1993:241), provide data from "arenas" in which subsystem members regularly participate. Hearing submissions and transcripts can be supplemented with additional sources (internal documents, public policy statements, etc.) where these arenas are absent or seen to produce output that does not reflect the true position of the subsystem member. Additionally, other government hearings or investigations can be used as substitutes for congressional inquiry processes (Sabatier and Brasher, 1993:186). In applying this explicit methodology to the Australian context, parliamentary hearings and governmental inquiries were substituted for congressional committees, having a largely similar rationale for their existence (the greater investigation of particular issues in detail and improving the process of government), composition (legislators / public servants), and processes (submissions, hearings, report writing, etc.) (Inglis, 1970; Parliament of Australia, 1998).

To gather the data for the case analysis nine investigations or inquiries were used:
- Gibbs Inquiry into Computer Crime (1987–8);
- Three inquiries of the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (1995; 1995; 1997);
- Australian Broadcasting Authority Investigation into Online Services (1995–6);
- Department of Communications Consultation on the proposed national framework document (1997);
- National Office for the Information Economy (NOIE) consultation on its preliminary strategy paper Towards an Australian Strategy for the Information Economy (1998);

Each of these data sources was selected because of either a specific concern with content regulation (such as the Senate Inquires) or inclusion of the issue / feedback on government policy related to content regulation as part of a wider inquiry (e.g. the Gibbs Inquiry or the NOIE consultation process). Overall, the fora chosen to provide primary sources where highly relevant to the case study, and provide an excellent coverage of the period (with the period 1995–8 having more than one hearing per year related to the topic). Of the seven hundred and twelve submissions (consisting of submissions, witness transcripts, or both; as listed in Appendix 6.1) made to these fora, one hundred and thirty-six documents were sampled for analysis (listed in Appendix 6.2). The decision rule for sampling was on the basis of regular submission to one of these forums, that is, any individual or group that submitted on a regular basis (consecutively, or once every two inquiries).

**The Coding Process**

Having selected the documents for preliminary analysis, a coding frame was constructed with multiple measures using numerical scales (based on "Likert" or attitudinal scales). This instrument was developed from on an initial assessment of the case study (drawn from secondary sources and detailed in Chapter Five). The coding frame is divided into three areas of the group or individual's belief system for investigation (see Appendix 6.3): Deep Core, Policy (Near) Core, and Secondary Aspects of the belief system, from the most broad and deeply held, to more specific and changeable views regarding

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266 Sabatier does not explicitly limit data collection to these arenas, and technical areas may develop regular fora governed by professional / scientific norms in which subsystem members may participate such as scientific / policy conferences (especially on the international policy-development level).

267 As discussed in Chapter Four, Sabatier and Jenkins-Smith see the congressional committees as being fora in which casual speech occurs (i.e. the data is seen as unbiased or representing the "individual true value" of the group or individual).
Australia's Online Censorship Regime

policy. These areas contained seventy-one separate measures, which could be used separately, interchangeably, or indicatively to measure relevant aspects of the individual or group's belief system from the sampled documents. To code this data, a coding team of four was given an introduction into the method and case study before coding the documents using the coding frame. The process took a number of days to complete.

The completed data sets were reduced into fifteen measurements [comprised of measures from the coding frame listed in square brackets]:

A. Importance of community values [a4a–a4b];
B. Importance of libertarianism [a4c–a4e];
C. Criminal versus social nature of the policy area [b1];
D. Applicability of existing legal codes to the policy area [c1];
E. Definability of the problem [b2, c2];
F. Type of policy area [b3, c3];
G. Scope / importance of the problem [b4, c4, c5];
H. Appropriate domain of governmental intervention [b5a];
I. Basic policy response required [b5b];
J. Duty of care for online content [c6c];
K. Positive or negative view of government intervention [b6, c7];
L. Government capacity to act [b7];
M. Complexity of the policy area [c8];
N. Preference of technical versus non-technical response [b9, b10];
O. Capacity of various solutions to solve the problem [c11, c12].

These values were further reduced where missing data prevented the comparison, some median values were included to complete the data set, and some measures were not used because of missing data [a1–a3, c6a–b]. Finally this information was tabulated and converted into dendrograms using standard multivariate clustering analysis.

Intercoder Reliability

As the research methodology is concerned with developing a systematic, scientific approach to policy making studies, Sabatier and Jenkins-Smith advocate the evaluation of the coding process. Thus, the question of reliability was tested through the multiple coding of a sub-sample of documents, to develop a measure of intercoder reliability. Simply stated, these tests aim to show how likely the same results would be made in any replication of the research study (Chadwick, 1984:249–50). High reliability means that measures are less subjective and more suitable for direct replication and cross-evaluation, an indicator of how "scientific" the research is. In the ACF, Sabatier and Jenkins-Smith are concerned with the question of replicability. In developing the rules of coding (as duplicated in Appendix 6.3), they seek to code manifest content (the first rule listed on page two of the coding frame under "Coding Guidelines: General Rules"). However, unlike the use of the SWIFT package in Chapter Five (also see Appendix 5.3), their concern with manifest content is not a simple application of word frequency

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268 This means that some surface level values could be used to indicate the preference held at a deeper level of the belief system.

269 The group consisting of Honours students from the Australian National University and University of Canberra: Simon Lansdown, Jessica Sutherland, and Vanessa True, with the researcher as team leader.

270 This introduction consisted of two seminars undertaken over one day.

271 This follows Sabatier and Jenkins-Smith's practice, where missing data problems are overcome using substitution and conflation of some similar values.

272 The A. Importance of community values and B. Importance of libertarianism measures were later discarded from all the data sets because of the problem of missing data associated with these measures (for more discussion of this problem, see Chapter Eight).
measures. Thus, while the coding rules specify the identification of specific statements to justify coding decisions, the coding team had a degree of discretion in how they interpreted and coded communication elements in the primary documents (a concern with latent content; Babbie, 1992:318–9).

Because of these manifest / latent content considerations, and the tendency for missing data, the question of intercoder reliability becomes important in assessing the value of the method. Table 6-1 shows the results of the intercoder reliability measures. These measures are divided into two parts:

- **Coding decision similarity** - did the two coders decide the code the same measures;
- **Percent variance** - in their decision to code the same measures, how close on the Likert scale were their codings.

Overall, the table shows that the decision to code was just under eighty percent, while the average variance of coding decisions was under thirteen percent (as each "step" along the Likert is twenty-five percent, this represents slightly less than half a step average variance). This compares favourably with the minimum suggested by Chadwick (sixty percent), while Sabatier and Brasher report for the Lake Tahoe research a three person coding similarity of eighty-nine percent with ninety-one percent of coding decisions being within one step of each other. Jenkins-Smith and St. Clair in the offshore energy study report eighty-five percent decision similarity, with an extremely high ninety-eight percent coding variance no more than one step apart (again on a five point scale). Overall, while the coding similarity in this case analysis compares favourably, the coding decision test for the case analysis is lower than the research undertaken by Sabatier and Brasher or Jenkins-Smith and St Clair (by seven to eleven percentage points). While not discrediting the method, this finding may limit its value as a "cookbook" research application.

<table>
<thead>
<tr>
<th>Coding Decision Similarity %</th>
<th>% Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>73.6</td>
<td>16.66</td>
</tr>
<tr>
<td>86.1</td>
<td>0</td>
</tr>
<tr>
<td>69.44</td>
<td>22.22</td>
</tr>
<tr>
<td>81.9</td>
<td>10</td>
</tr>
<tr>
<td>80.55</td>
<td>13</td>
</tr>
<tr>
<td>61.11</td>
<td>6.6</td>
</tr>
<tr>
<td>80.55</td>
<td>13.88</td>
</tr>
<tr>
<td>79.1</td>
<td>16.66</td>
</tr>
<tr>
<td>88.88</td>
<td>12.5</td>
</tr>
<tr>
<td><strong>77.91</strong></td>
<td><strong>12.39</strong></td>
</tr>
</tbody>
</table>

**Data Analysis and Results**

Following the coding and statistical analysis of the sampled documents, we are left with six dendrograms (1988, 1995, 1996, 1997, 1998, and 1999). These figures give a well-distributed range of "snapshots" of the state of the policy subsystem over the life of the case study. Generally, three observations should be made about the analysis presented below: First, while studies undertaken by Sabatier and Jenkins-Smith (with their various co-authors) tend towards timeframes that are substantially over the minimum ten year period advocated by Sabatier (nineteen years for the Lake Tahoe and OCS studies), this...

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273 There is no rule for this research method, generally the higher the similarity measures, the more reliable the research methodology (reliable in this sense is being used in it's technical meaning, as opposed to the concept of valid).

274 The finding in this case is significantly closer to Sabatier and Jenkins-Smith's work than the minimum of Chadwick.
case analysis is relatively short in duration (twelve years in total); Second, as we will see in the analysis below, government interest and regulatory activity does not necessarily signify the existence of an identifiable and continuous policy subsystem where the issue can be seen as "latent". This what this means is that the implications of the case study (which can only identify coalitions that form in 1995 or 1996) does not give a long enough timeframe of analysis to make concrete assessments of some of the hypotheses of Sabatier and Jenkins-Smith (as is discussed in detail in Chapter Eight); and, Third, unlike the case studies undertaken in the United States and Canada, this case relates to the development of implementable policy as the end point of the study (while the government had a number of policy positions during the period, none were final "for implementation" until the passage of the Broadcasting Services Amendment (Online Services) Bill 1999 and subsequent additional policy development (formalisation of codes of practice and rulings by the Australian Broadcasting Authority). Partially, this is because the case study and analysis was undertaken concurrently with events (the thesis finalised only four months after the end of the case study) and, therefore, the exact date of the final decision making process was unknown at the start of the case, but also because of the emerging nature of the case study—and therefore the capacity to study the policy subsystem in utero—few concrete policy decisions were taken from idea to implementation during the life of the case study. What this means is that the case lacks two elements of a more mature policy subsystem: (i) the tendency for incremental adjustment to policy implementation or agency administration due to strategic action of subsystem members or externalities, and (ii) as illustrated in the ACF model in figure 6-1, the generation of information via feedback loops is restricted to response and learning based on technological development\textsuperscript{275} (from the external environment), and stated government intention (as opposed to formal policy), rather than from practical assessments of policy implementation.

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure6-1.png}
\caption{The ACF Feedback Loops*}
\end{figure}

\begin{itemize}
\item Changes in socio-economic conditions
\item Changes in public opinion
\item Changes in systemic governing coalition
\item Policy decisions and impacts from other subsystems
\item Technological change*
\end{itemize}

\textsuperscript{275}This development uses the term technology in its wider sense: the application of knowledge. Technological developments can affect (directly or indirectly) the design, manufacture, use, value, and meaning of objects, and shape social interaction (on a personal, commercial, or group level). Thus, the inclusion of technological change can have an influence on the relatively stable system parameters, regardless of the form of technology change.

.. 122 ..
Overall, analysis of the data in this section is broken into five parts, each representing a significant period in the life of the issue and policy subsystem:

1. **The Pre-issue Period** (1987–93): This period utilises data from the Gibbs inquiry into computer crime, it can be classified as a period prior to the establishment of a policy subsystem of the issue of computer network content regulation and, as such, gives an insight into the development of subsystems themselves in Australia;

2. **Formation of the Policy Subsystem** (1994–5): With the establishment of federal fora for the consideration of policy on the regulation of computer network content, the increasing number of users, business, and information technology (IT) professionals, this period shows the emergence of a policy subsystem that will remain active throughout the life of the case study.

3. **Stabilisation of the Advocacy Coalitions** (1996): Given the amount of government interest in the issue (at both State and Federal levels) in 1995–6, competing coalitions that emerged in 1995 gain longevity and stability in this period. Because of the number of active groups at this time (and the fora in which these groups can participate), the data from this period shows the underlying stable positions that groups in the policy subsystem will retain in periods of conflict.

4. **The "Compromise" Period** (1997–8): Following the release of the ABA Investigation report and subsequent government policy principles (the proposed National Framework document), the level of conflict and activity in the subsystem is reduced and some groups move towards the more moderate centre of the policy spectrum. This period can be seen as the result of the internal subsystem dynamics, which lead to reduced levels of conflict from the 1996 period.

5. **The Legislative Conflict** (1999-2000): Finally, with the government's proposed legislation, the 1999 data (gained from the Senate Select Committee on Information Technologies inquiry into the *Broadcasting Services Amendment (Online Services) Bill 1999*) shows the fragility of the "compromise" period, with (largely) a reversion of groups back into their 1996 coalitions.

**The Pre-issue Period**

Data gathered from the Gibbs inquiry into computer crime, presented in figure 6-2 is statistically unhelpful in describing the general deployment of groups involved in the inquiry process of the time. This is based on two factors: First, because of the sampling method used, only three groups (the Australian Federal Police (AFP), Telecom Australia, and the Commonwealth Attorney-General's Department) were included because of their longevity in the policy subsystem; Second, given the relatively limited scope of the inquiry, few non-government groups (only two law societies and an academic) made submissions to the inquiry. Industry, users, and IT professionals were not represented in the inquiry process. The results of this analysis should not be interpreted to imply that the sampling method is not valid. While greater sampling of this inquiry would present a more accurate portrayal of the deployment of groups involved in the inquiry, there was a lack of substantive connection between the participants in the Gibbs Inquiry and the later investigations and hearings. This shows a fundamental disjuncture between the two periods (1987–8 and 1995–). Essentially, the policy process in 1988 is distinct and remains largely unrelated to the later policy-making process.

**Figure 6-2: Dendrogram for 1988**

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276 However, the inclusion of the AFP is only through sampling of other Federal Law Enforcement agencies for comparison (e.g. the Office of Strategic Crime Assessments (OSCA)). However, the OSCA documents provided too little information to be statistically relevant and were later excluded from the data analysis.

277 The clustering history for this, and all subsequent dendrograms, is found in Appendix 6.4.
Overall, the distinction between the two clusters included in the above figure (AFP and Telecom Australia marked in pink on the dendrogram; and the Attorney-General's Department marked in black) is the scope of any legislative change, with the pink cluster preferring a more widely applicable set of Commonwealth laws and the Attorney-General's Department favouring legislation restricted to Commonwealth owned computer networks. A more widely operating set of computer crime laws would have provided the AFP with a greater capacity to act in this developing area of criminal activity, and Telecom—at the time concerned with misuse of its systems and services—with deterrence laws against hacking-related activities that Telecom saw as being regarded as trivial by the general public (Moon, 1988:2). However, this position was not adopted, with the inquiry limiting its recommendations to Commonwealth systems. In restricting the development of this legislation towards coverage of private systems, the issue of Bulletin Board System content did not form part of the inquiry process at this time.

**Formation of the Policy Subsystem**

Given the discrete nature of the policy-making process in 1988, the policy subsystem does not emerge until the Federal government and Parliament (though the Senate committee system) begin exploring the issue of Bulletin Board Systems (BBSs) content in 1995. While these computer systems existed in 1988, concerns about online content in the 1990s was stimulated by a different policy subsystem: that of censorship through the Standing Committee of Attorneys-General (SCAG). In examining the implementation implications of increased control of computer games, the issue of regulatory avoidance and BBSs came to the attention of SCAG members, particularly where new controls over violent and pornographic video games were seen to be avoided using computer networks. While additional regulation of BBSs could have been introduced through the BBS Taskforce process, the emergence of Internet technology, the greater penetration of computers and modems into the Australian homes, and the associated commercial interest in the technology prevented the BBS Taskforce recommendations being translated into policy. Through attention given to the topic by the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, pressure was placed on the Federal Labor Government to act, and a forum provided to interested individuals and groups. While the Gibbs inquiry process saw little conflict over its recommendations, what effectively happened in 1995 was the establishment of coalitions supporting and opposed to the regulation, which were willing to become entrenched in the policy subsystem and engage in debate.

**I) Nature of the Policy Subsystem**

Figure 6-3 shows the deployment of subsystem members in 1995. The composition of the subsystem is interesting for three reasons: First, it is the first time a forum was provided for groups interested in online content (particularly concerned with the Internet) to express their preferred policy views to government (the BBS Taskforce specifically constrained to the older technology); Second, and related to the first point, the general level of understanding of the technology, it's implications, and path of future development was low. While some groups had particular expertise with technology, they were new to the political process (such as the Internet Industry Association278), while other groups familiar with dealing with government and regulation were still attempting to understand the implications of the technology on their existing business practices (News Limited would be a good example of this). Generally, three advocacy coalitions

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278 In this, and subsequent dendrograms the Internet Industry Association (IIA) is used to refer to the Internet Industry Association of Australia (IntIIA), the Australian Internet Association (AIA), and the Australian Internet Council (AIC). These groups came to form the IIA.
emergence in 1995 that will remain (with some notable exceptions) during the life of the case study. These coalitions are consistently colour coded for the following dendrograms.

Figure 6-3: Dendrogram for 1995

Marked in red in figure 6-3 is the "pro-regulation coalition"\textsuperscript{279}. This coalition (with additional and transitory members) is highly stable over the life of the case study. Comprised of the Commonwealth Attorney-General's Department and a number of interest groups that maintain wider concerns about the content of media (especially pornography and violence, and the impact of media on young people; Van Luyn, 1995:3). Overall, the coalition advocated the use of criminal sanction against those who transmitted and / or received material deemed to be unsuitable for children (MacDonald, 1995:2). While some advocated a mix of regulation, education, and other government-initiated strategies, the overriding focus of their approach was legislative: using criminal sanction as the main tool for the control of communicated content. Given this criminal law approach, it is unsurprising that the Commonwealth Attorney-General's officers supported this position.

The second cluster, marked in blue on the dendrogram, has been termed the "light regulation coalition". Comprised of members of the general computer industry (General Products Limited, Checkmark Technologies), IT professionals (such as the Australian Computer Society (ACS) and academic members of the group (Roger Clarke of the Australian National University)), and policy watchers (the Communications Law Centre, the Public Policy Assessment Society), the light regulation coalition is concerned with promoting either minimal government intervention in online content (Swan and Patten, 1995:2–3), or the view that existing legislative safeguards via telecommunications (the use of telecommunications services to harass) and criminal law (such as prohibitions on the possession of child pornography) were sufficient to deal with crimes that may occur online (Proudfoot, 1995:2; Aynsley, 1995:2). Overall, the light regulation coalition members were more likely to admit either to some degree of problem associated with content, or to concede the importance of public concern. Unlike the pro-regulation

\textsuperscript{279}Note that these labels are researcher imposed.
coalition, however, they did not present this as a serious social threat that required urgent government intervention.

The final cluster, the "no regulation coalition", is marked in green on the figure. A smaller group it contained Bulletin Board System operators happy with the lack of regulation on BBSs (the PC Users Groups (ACT)), commercial interests (Optus Communications, The Internet Industry Association), and individual users (Robin Whittle, Irene Graham\textsuperscript{280}). These groups and individuals were opposed to government regulation of the new media form, either because of the impact of individual personal liberty to communicate (Graham, 1995:7), or the extremely negative effect of untimely or ill-considered regulation of operators of emerging online services (Optus Vision, 1995:1; PC Users Group (ACT), 1995:7). Essentially, this coalition opposed regulatory action, at least prior to the government developing a much more sophisticated understanding of the technology and its capacities. Overall, when considering the light and no regulation coalitions, the dendrogram shows they remain closer (being part of the same larger cluster (as marked by the light blue line connecting the two clusters) than either coalition is to the pro-regulation coalition. This remains consistent over the life of the case, with these two groups more likely to trade members.


During 1995 the Labor Government, under Communications Minister Michael Lee, made its first significant policy decision. Lee instructed the ABA to hold an investigation into the question of online content regulation: specifying that the Authority examine a range of self- and co-regulatory options, educational, and technological methods of controlling minors' access to inappropriate material, and the applicability of the Broadcasting Services Act 1992 to this new media environment. Overall, this policy decision is a minor victory for the light and no regulation coalitions, seeing the success of their position against overly rapid action by government. As indicated in figure 6-4, which shows the position of subsystem members based on their views of the government's capacity to successfully regulate the policy area, and the group or individuals' positive or negative views on regulation more generally, members of the light and no regulation coalition generally expressed doubt at the capacity of the Government to impose a successful regulatory regime\textsuperscript{281}. While the pro-regulation coalition had pushed for immediate government action on the issue of online content, Lee decided only to examine the issue further, and in a manner providing additional input from potential regulators under his authority (the ABA) and the public (through the consultation process). In providing an agency with responsibility for the investigation, rather than sending the issue back to his department, this decision also meant the government was essentially obligated not to act until the ABA had completed its investigation process (effectively deferring further decision from his office for eleven months, a delay encouraged by the light regulation coalition).

Figure 6-4: Preference for, and Capacity to, Regulate - 1995

\textsuperscript{280}Graham was later to become secretary of Electronic Frontiers Australia (EFA).
\textsuperscript{281}Additionally, and to a lesser extent, these coalition members were generally negatively predisposed to the concept of regulation being applied to the online environment.
Lee's decision shows the importance of information in this formative policy subsystem. Jenkins-Smith and Sabatier (1993:45–8) propose a flow chart model of policy debate applicable to these scenarios. As we can see in figure 6-5, where coalitions manage to establish their cause on the political agenda and meet resistance from other coalitions282, the outcome of debate can either lead to:

- **a simple resolution** [A] where a coalition emerges with a policy problem, places it on the public agenda, and receives a policy response (this can be seen to occur in 1988 with the relatively uncontested decision making occurring in the Gibbs inquiry);
- **a consensus on policy** [B] where the coalitions, through the process of analytical debate, come to agree on a mutually acceptable course of action;
- **no consensus, but with an accepted set of "rules of engagement"** [C]. The coalitions remain in conflict, however the nature of the dispute and the elements of the policy issue are generally agreed upon by subsystem members; or
- **a total lack of consensus** [D] in which neither a policy response nor the nature of the policy issue are agreed. In this case, governmental decisions will emphasise the search for information to better inform decision makers (and to some extent the coalition members), understand the true nature of the issue, and determine potential policy responses (and their relative strengths and weaknesses). In this case few, if any, concrete regulatory measures will be taken.

**Figure 6-5**: Dynamics of Policy Debate in Formative Policy Subsystems*

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282 This is opposed to those that dominate the subsystem and can easily have their preferences enacted (policy subsystems with only one advocacy coalition).
In this example, we can see that pressure to investigate the issue of online content, and the findings of the Senate Committee in early 1995 motivated additional coalition members (in all three coalitions) to become manifest. Without the monopolisation of a single view on the subject, the competing coalitions engaged in debate about the nature of the issue, proposing and countering each other’s assertions and arguments (about the amount of pornographic material online, the impact on the minds of minors, and the utility of existing or potential regulation). As illustrated in figure 6-6, none of the coalitions could agree on two of the more fundamental questions under consideration, with the high regulation coalition generally arguing that a serious problem existed, and that it could not be met with existing legal codes (thus necessitating new laws), while the no and light regulation played down the scope of the problem, but divided over the applicability of existing law. Given such a division, the decision of Michael Lee follows the logic presented by Jenkins-Smith and Sabatier at this very formative point in the policy subsystem’s development.

Figure 6-6: Problem Scope and Legal Codes - 1995
(III) Subsystem Formation: 1995 versus 1988

With the identification of a subsystem’s emergence in 1995, the question can be asked: What conditions occurred in the early 1990s that were not present in the seven years earlier that lead to subsystem formation? In answering this question it is important to remember that Sabatier posits that subsystems form either from the coalescence of actors around a wholly new policy issue, or when groups break away from an existing policy subsystem, because the area changes over time (to become more complex, important specialised, etc.) or the subgroup manages to develop independence from its progenitor.

In this case study two factors can be identified as causing the development of the policy subsystem in 1995 that were lacking in 1988: First, as explored above, the deliberate decision by the Labor Government to continue investigation of the issue provided a focal point for political activity. With differences between the Department of Communication’s view (favouring light regulation), and the Attorney-General’s Department and members of the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies (recommending more direct action by government and supporting the view presented by the pro-regulation coalition), the three coalitions saw scope for political success. This evaluation was the result of the mixed opinion within the Federal Government, with each coalition receiving demonstrations of positive feedback and encouragement to remain engaged in the policy process. Additionally, while both the Attorney-General’s and Communications Departments were involved in the debate, with very different views on what should be done, time was also needed for the Federal Government itself to reach a level of agreement on the issue before proceeding to a final decision on the issue; Second, because of this level of competition over fundamental statements of policy and belief (that regulation should or should not be applied, that there was or was not a genuine social problem emerging with online technologies, that existing laws were or were not suitable to controlling excesses of new media), the competing coalitions saw genuine threat in each others’ position should they withdraw from the policy subsystem.

This means that, the subsystem, while motivated by concerns stemming from other regulatory areas (censorship) and containing some of the players from this policy subsystem (the Attorney-General and his Department, some media pressure groups), is

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283 Additionally, a subgroup may develop independence because of an exogenous factor: change to the systemic governing coalition (a policy change, the reduction of status of those tied to a former government, change of sovereigns, etc.), economic or social change (eliminating the capacity of some groups to remain active, changing the social status of other groups, etc.), or constitutional change (a redistribution of powers).
not the offspring of the censorship area. Generally, few of the subsystem members split from censorship, with many coalitions members newly active in the political process. While the continuation of a federal fora for debate provided a focus for subsystem members’ activities, the level of conflict, as indicated by the discussion of the implications of figure 6-4 and 6-6, stimulated groups’ commitments to their political activity at this time. This level of conflict was not a feature of the 1988 policy discussion, possibly because of the lack of general involvement outside of the sphere of Commonwealth Departments (which, had limits over their liberty to pursue the issue once the inquiry process was concluded). Overall, while 1988 saw disagreement about the scope and detail of the criminal law changes, the lack of bitter disagreement between the participants led to the issue returning to dormancy following its passage into legislation. Unlike 1988, for the online content issue the level of conflict present in the policy subsystem at this time was about to reach a whole new level of intensity.

Stabilisation of the Advocacy Coalitions
While the scale of the ABA investigation made it the largest consultative process in the life of the case study, the motivation for coalition members’ involvement in the analytical debate of 1996 was also driven by regulatory moves coming from New South Wales and supported by SCAG. This period sees the largest number of active groups in the political debate, possibly for two reasons: First, it may be due to the population size of NSW (and the corresponding usage of computer networks in the State) and the concentration of IT and Internet-related businesses in the greater Sydney area (of the sampled industry groups that submitted to the ABA Inquiry, more than half (a ratio of 4:3) were located there); and, Second, because members of the pro-regulation coalition were encouraged by the findings of the Senate Select Committee on Community Standards in 1995 and the appearance of a sovereign publicly stating a willingness to take strong regulatory action on the issue of online content the subsequent year. What is important to note is that the Commonwealth Attorney-General’s Department remained in favour of regulatory action at this point of time, partially through the work done by the Criminal Law Division on the BBS Taskforce (Johnson, 1996:2–3), but also because of the relationship between the Department and the SCAG process that had supported the action of the New South Wales Government, in principle at least. With the release of the “draft” NSW legislation to Electronic Frontiers Australia (EFA), the debate in NSW became even more bitter, including the march on the State Parliament organised by EFA members.

(1) Open Conflict in the Subsystem: Balkanisation
Prior to the examination of figure 6-7 (describing the policy subsystem in 1996) a caveat needs to be made. While 1996 saw a high degree of conflict within the policy subsystem, the timing of the ABA Investigation and Jeff Shaw’s announcement of NSW legislation, meant that only a subsection of the sampled documents used in constructing the data set were written during the NSW legislative debate period (the majority produced in the new year period prior to the State Attorney-General’s announcement, as outlined in Appendix 5.2). The next set of data (the 1997 Senate Select Committee Inquiry) is not produced until well after this period when the NSW legislation had been withdrawn, and so the implications of the NSW action on the position of groups in the subsystem cannot be accurately determined from the data set.

In general what the dendrogram for 1996 shows is that, while a number of groups have moved around the subsystem, a relatively stable pattern has begun to emerge. Significantly, between the light and no regulation coalitions, the EFA and a number of policy watchers have moved into the no regulation coalition showing their strengthened opposition to regulatory action at this point in time and citing the lack of need for new laws (Proudfoot, 1996:1; Heitman, 1996a:2). The light regulation coalition has come to accommodate Optus Communications and is now dominated by commercial and professional interests. Those commercial interests that remain in the no regulation coalition are themselves connected in some form to Electronic Frontiers Australia:
General Products Ltd. represented by Peter Merel, an EFA member and later organiser of the march on the NSW Parliament with Danny Yee, concerned with online free speech and the compliance costs of regulation on Internet Service Providers (ISPs) and other industry members (Merel, 1996:3,4), and the Western Australian Internet Association Ltd. (WAIA) represented by Kimberley Heitman who produced the WAIA and EFA submissions\textsuperscript{284} (the WAIA is a representative organisation of ISPs, customers, and IT professionals; Heitman, 1996b:1). It is important to note in this distribution of groups between these two coalitions that, while they do not remain entirely consistent over the life of the case, their exists a tendency for this form of commercial interest / non-commercial interest split between the composition of the light and no regulation coalitions. This difference in type of member appears to add to tensions between the related clusters.

Also interesting in this figure is the relationship between members of the pro-regulation coalition that was identified in the 1995 dendrogram. A discrete cluster at this time (returning so in 1997), the distribution of these groups during 1996 necessitates them being divided into two clusters\textsuperscript{285}. While the pro-regulation coalition still exists (for the purposes of this evaluation, based around the Commonwealth Attorney-General's Department), a second, coalition separates out (marked in pink on the dendrogram), which we will call the high regulation coalition. At this time the pro-regulation continued its support for regulation based on the threat to children by online content (Biggins, 1996:2–3), but with an acknowledgment of the limitations of technological solutions and the need for non-coercive strategies funded by government (education of parents and children in the safe use of new media)—an impact of the process of policy learning resulting from the analytical debate of 1995. The high regulation coalition, on the other hand, were less compromising. They called for strict application of liability for content (to creators and communicators of it). This would be backed by direct regulation overseen by a "control board" (Presbyterian Women's Association; Smith, 1996:1–2), a "representative committee" (Association of Heads of Independent Schools of Australia; Gleeson, 1996:2), or an "independent complaints handling body" (Censorship Office of Western Australia; Morisey, 1996:21). This difference significantly divides those in favour of regulation into two advocacy coalitions that, while having similar concerns about the extent of the problem, promoted very different policy solutions to address these concerns. While this reflects, to some extent, a division between the deep core or near core of these groups' value systems (the state of social decline or the direct negative impact of media on the moral fabric of society), this division is manifest at the secondary aspects level: in terms of preferred policy and elements of the regulatory strategy advocated.

\textbf{Figure 6-7: Dendrogram for 1996}

\textsuperscript{284}The composition of the no regulation in this dendrogram (especially the close positions of the EFA and WAIA) indicates the reliability of the coding and analysis process. Had the research instruments been less reliable, these two nodes may have fallen further apart, regardless of the fact that they were authored by the same individual making substantially similar (but not identical) points.

\textsuperscript{285}These two clusters split before the light and no regulation coalitions could be identified. Thus, dividing these two clusters is logical following the decision rule used to determine the number of clusters in the dendrogram.
Overall, in assessing the state of the policy subsystem at this time it is clear that a broad range of arguments being openly discussed in the policy subsystem. This debate extended from the laissez-faire approach preferred by some in the online user community, to strict regulation via police inspection using criminal powers to search, seize, and charge content violators. Overall, this range of debate is interesting, while issues of self- and co-regulation were the explicit ambit of the ABA Investigation, this attempt by Michael Lee to set the agenda of the policy subsystem does not appear to have restricted the scope of the policy debate.

(II) The Light Regulation Coalition's Success: Towards a Compromise Position
As will be discussed below, the next set of data applicable to the case study comes from 1997 and shows a general relaxation in the position of subsystem members. Because of the dispersal of inquiries, however, over a year passed between preparation of submissions for ABA Investigation and those for the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies part three (held during the middle of 1997). Additionally, by the time the Department of Communications and the Arts calls for public comment on the Principles for a Regulatory Framework for On-Line Services in the Broadcasting Services Act 1992 document, a year has passed from when the NSW draft legislation was abandoned. Because of this gap between data sources, it is difficult to determine the impact on the subsystem of the release of the ABA's report and the decision by the NSW Attorney-General to discontinue developing legislation. Overall, what can seem from these events is that the ABA, in calling for a co-regulatory model within the Broadcasting Services Act in which it and industry codes of practice would feature prominently (with emphasis on education and end user empowerment through desktop filtering / classification technologies such as the Platform for Internet Content Selection (PICS); ABA, 1996), strongly favoured the median position being put forward by the light regulation coalition. As the light regulation coalition consisted largely of business groups, the ABA essentially
supported an industry-lead approach to regulation that favoured complaints-driven control rather than criminal sanction (i.e. a regime with low compliance costs). This approach, unsurprisingly, closely emulated the model used in the legislation for the broadcasting industry itself, regardless of their radically different structural characteristics. Thus, while the direction given to the ABA may not have shaped the agenda in terms of scope of the extent of the public debate, the report was constrained within the ambit of the ministerial direction. This was a strong rejection of the views of the Senate Select Committee on Community Standards, the NSW government (and to a small extent, SCAG's tacit support for Jeff Shaw's leadership on the issue), and the views of the pro-regulation coalition.

The "Compromise" Period
Given the findings of the ABA investigation, between 1996 and late 1998 we can see a reduction in the level of conflict within the policy subsystem. In the history of the case study, discussed in Chapter Five, this period saw a limited amount of conflict, mainly reserved to the Senate Select Committee on Community Standards, which maintained its strong stand on legislative criminal sanctions (Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, 1997:1). Under the new Howard Coalition Government, Federal Government policy making moved to consolidate the position left by the Labor Party, with the ABA's report being converted into a substantive policy statement in the middle of 1997. In this climate, the general position of some of the no regulation coalition members became more conciliatory and a number of the pro- and high regulation coalition members became inactive. Because of this apparent compromise among many groups to the consideration of some form of mild federal regulation (or, at the least, the relaxation of active hostility towards the concept), and this period sees the emergence of the IIA as an increasingly important player in the policy subsystem, and one willing to become engaged with the regulatory process as an active partner with government in subsequent years.

(I) Towards the National Framework Policy Document (circa mid 1997)
Following the failure of the NSW legislation in 1996, the policy subsystem in mid 1997 (as depicted in figure 6-8) has moved back into a composition very similar to that of 1995. While this could be seen as a reversion to a pre-existing tendency for the subsystem members, the intensity of the conflict in 1996 shaped the composition of the coalitions. These changes can be seen in a number of organisations: First, the Internet Industry Association (in the form of the Australian Internet Council at this time) presents itself as willing to accept regulation via national ISP codes of practice (AIC, 1997), a view markedly different to that presented to the Senate Committee in 1995, where it was...

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286 As identified in Chapter Five, the capacity for co-regulation through the establishment of a peak industry body which develops codes of practice for policing by the ABA is utilised in the Broadcasting area because of the extremely limited number of media operators. This system is useful where industry peak bodies can be seen to represent all of the actual operators. In the case of ISPs, with the large number of small operators, the capacity for a peak body to sign a high percentage of the industry was doubtful.

287 While the Committee endorsed the recommendations of the ABA Investigation in that a co-regulatory scheme be established (the committee using the Telephone Information Services Standards Council as a model) [recommendation 2], their preference for the banning of material that is "Refused Classification ... or to be in a restricted category" (emphasis added) set the standard at R or higher, regardless if the material had not been ruled upon (remained uncategorised) [recommendation 1], while only providing good faith protections from prosecution for those service providers who restricted material that may be considered illegal (significantly favouring conservative proactive censoring by ISPs) [recommendation 5].

288 To the extent that the Government took the policy to the first term election as a small part of their official policy documents.
concerned about the effects of any regulatory move on the development of the industry in Australia (in terms of the development of a market for the product and companies able to supply demand; Parliament of Australia, 1995a:145). This shift indicates the direction of the Association’s development in response to events within the subsystem, leading to the IIA repositioning to present itself as the peak industry body for ISPs in Australia, and therefore central to any regulatory regime (directly competing with the state-based organisations like the WAIA and the South Australian Internet Association289); Second, in the case of individuals and organisations related to Electronic Frontiers Australia, Irene Graham’s position has remained consistent to that held in 1996, as has the Western Australian Internet Association (the WAIA submissions at this time again prepared by Kimberley Heitman). The EFA itself has moved back into the light regulation coalition, closely matching that held by Greg Taylor in 1996. Taylor was the Board Member who submitted the EFA’s contribution to, and appeared before, part three of the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies inquiry into online content at this time (Heitman submitted the organisation’s submission to the Department of Communications and the Arts consultation process later in this year). Thus, while the organisation has continued to move back and forth between the light and no regulation coalitions (apparently influenced by the author of the submission and the level of subsystem tension), individuals who have a formal association with the organisation appear to remain highly consistent positions; and, Third, the Department of Communications and the Arts has re-emerged at this point (it did not submit to the ABA Investigation as it was, essentially, the body calling for information from the ABA), maintaining a position consistent with its previous position of 1995 and in tune with the general thrust of recommendations given to the Minister the previous year by the ABA.

Within figure 6-8 two interesting features need to be highlighted and discussed: First, in 1997 we can see an additional advocacy coalition form which is unique to this point in time. Consisting of only two members and marked in black in figure 6-8, this cluster consists of the Eros Foundation and the Communications Law Centre (CLC)290. This cluster (the **PICS solution coalition**) supported the use of PICS technology as a means of accommodating both the desire for control of content for the protection of minors and the preservation of the Internet as a source for adult-oriented content and free speech (Parliament of Australia, 1997:204–6; Eros Foundation, 1997). Because PICS could accommodate a range of ratings systems and methods, and be configured depending on the personal and cultural sensitivities of the individual user (Resnick, 1997), this approach was seen as a potentially empowering approach to content control (rather than a top-down mandated solution from government or some other organisation or agency)291. This was based on the view of PICS as a potential solution to issues of online content at the time, supported in some detail by the ABA report (though the ABA did not place emphasis on PICS as a singular solution to the issue in the way that this coalition did). That this coalition was untenable is directly related to the marketplace failure of the PICS model to become a widely adopted standard. Support for this

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289 Two organisations that argued the value of a nation body was limited and would fail to represent the smaller and more distant states as well as parochial organisations could.

290 As an ethical point, it should be noted that I have published articles in publications produced by both the Communications Law Centre and Eros Foundation (“Communications Update” and “The Adult Industry Review” respectively). No payment was solicited or received for these publications, however the CLC kindly allowed me access to their library in 1999 and both groups furnished me with copies of their publications (as have the Senate, the ABA, the Adelaide Institute, the Department of Communications, Information technology and the Arts, the Executive Council of Australian Jewry, and the Presbyterian Women’s Association of NSW for use in this thesis).

291 Lohr, however, presents the view that private sector involvement in the initiative was aimed at forestalling government intervention (1995:D7).
A technological solution made the cluster distinct from the no regulation coalition (although they share similar views about the negative impact of, and lack of need for, government intervention)\(^{292}\), as groups like the WAIA are already casting doubt upon the level of compliance any non-governmental classification system would have internationally (Heitman, 1997:2). By the time these two groups submit again, the idea of PICS as a solution has passed, a casualty of the rapid pace of technological and commercial change\(^{293}\) associated with the development of online services worldwide (a factor exogenous to the policy subsystem); the Second observation to be made of this period is that, while the ABA released its report supporting the call for a co-regulatory regime for online content, it falls within the pro-regulation coalition with other groups that have consistently supported more direct regulatory measures. This position itself is somewhat ambiguous, and certainly is not supported by a reading of the policy position advocated by the Online Investigation group of the Authority. However, this observed leaning towards more strident calls for action by the Authority at this point (an apparent aberration that is corrected in 1998) is supported by the Authority’s “urgent” requests for legislative changes to extend the jurisdiction of the agency. This legislative change would serve to provide them with an ongoing involvement in the issue of Internet content, which up to this point had merely temporarily been conferred by short-term Ministerial directions (Parliament of Australia, 1997:143). As the Authority had effectively been appointed as the future regulator of Internet content, it was now becoming “frustrated” (153) by the lack of action of Government to broaden its legislative base. Thus, while it is not possible from this data to determine the ABA’s preference regarding its new role, it was expressing a view that broadly can be seen to be encouraging regulatory action at this time.

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\(^{292}\) In this case the PICS solution coalition was presenting the adoption of PICS technology as a total solution to the problem. Essentially a response that totally avoided the need for any direct government intervention. The no regulation coalition, on the other hand, while against government intervention were doing so on the basis that the proposed methods of control could not be effective at all (especially technological filtering solutions).

\(^{293}\) One example of the problems associated with the rating system was the coverage of online news. Quittner (1997:49) notes that after joining a self-rating system in 1996, Microsoft’s news service (MSNBC) quietly abandoned rating because the service drew prohibitive ratings on major news items (such as the Oklahoma City Bombing). This was followed by a group of major news organisations (including Time, CNN, the New York Times, the Wall Street Journal, and Associated Press) publicly rejecting the standard and refusing to conform to the rating standard (Harmon, 1997:D3).
(II) The National Framework Policy Document
Given the substance and reception of the ABA report, the position of the Department of Communications and the Arts, and the changing attitude of industry groups towards a mild form of industry co-regulation supervised by a Federal agency (especially when compared with what had been proposed at the State level), the National Framework document reflected the dominance of the light regulation coalition. This dominance was first manifest in the decision by Michael Lee to bring the ABA into the policy debate (a deliberative move that both shaped the agenda and overcame a legislative restriction of the ABA to examine issues outside its gamut). However, the 1997 National Framework cemented the Department of Communications as the key co-ordinating body for the development of the regulatory regime, with their Minister the key sovereign for future policy decisions (within the context of the Cabinet process). As the Attorney-General's Department had been closely aligned with the pro-regulation coalition, and associated—through SCAG—with the disastrous failure of the NSW legislation, this choice to place decision making away from the Attorney-General was also favourable to the light regulation coalition, and less offensive to the no regulation camp (although inclusion of the regime in the Broadcasting model continued to cause concern among these groups, worried that the government still lacked understanding of the fundamental uniqueness of the medium; Graham, 1997:3; Australian Information Industry Association, 1997). Overall, the Principles did not produce substantial conflict, with many submitters to the Departmental consultation process examining the substantive points of the policy framework rather than attacking the overall basis of the regime itself (as had been the case with other regulatory proposals) (Clarke, 1997; Association of Heads of Independent Schools of Australia, 1997; Young Media Australia, 1997).

(III) In the Wake of the National Framework Policy Document (circa 1998)
From the middle of 1997 to the end of 1998, the process of policy development, based on the National Principles document and subsequent consultation, continued. This incremental approach dominated the agenda, with many groups seeing the regime as essentially agreed upon and only minor elements of policy to be determined (the source of rulings on the acceptability or otherwise of online content being one such issue). Conflict was curtailed and many groups became inactive. This inactivity was especially prevalent in the pro-regulation coalition. The release of the ABA report had presented a detailed account of the technology, and associated regulatory options—technical evidence that did not favour views of the pro-regulation coalition. Given the support offered to the light regulation coalition by the new, popular Government, some members of the pro-regulation coalition exited the policy subsystem temporality, some for the remainder of the case study (such as the Religious Alliance Against Pornography). Figure 6-9 shows the state of the policy subsystem in 1998, including the absence of the pro-regulation coalition and the movement of the ABA into light regulation coalition. Where the Department of Communications had been responsible for the policy development process in 1997, these functions had been transferred to the new Office of the Information Economy (NOIE), itself a member of the light regulation coalition (however, notably at the other end of the cluster to the ABA). Strengthening its position in the industry, the IIA had finally formalised its lobbying and membership structure (merging IntIAA and the AIA in 1997) and was now presenting itself as the industry "peak body" (Coroneos, 1998:1) with a draft code of practice for the industry to adopt (2) as an essential part of the co-regulatory regime being negotiated with the Government.

Figure 6-9: Dendrogram for 1998

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What figure 6-9 does not show, however, can be illustrated in figure 6-10. This figure graphs the standard deviations of a number of measures among the data sets over the life of the case study. These measures are featured in figure 6-10 are:

- the level of agreement about the policy’s characteristics, the capacity for the users and services online to be both defined (understood in a meaningful way that can be communicated) and identified (who exactly are the users and service providers);
- the actual underlying type of the policy area under consideration (what paradigm / regulatory category it falls into);
- the preferred policy mechanism to be used for government intervention in the market (what regulatory tool should be used), and;
- whether or not intervention is seen as having a beneficial or negative impact upon this issue / area / problem.

In charting these measures, it is possible to see the overall level of agreement within the policy subsystem itself (naturally, this level of agreement is lower than that found within coalitions). What the figure demonstrates is how the period 1997–8 shows an overall reduction in the level of disagreement about elements in the policy debate. This is most marked in the two measures looking at the definition of the policy area (nature and type),
showing that, while policy elements may be in dispute (secondary belief system elements), a greater level of agreement on near core beliefs is manifest. Because these belief elements are relatively significant, this can be seen to assist in explaining the reduced level of conflict in the policy subsystem at this point in time. Such tranquillity, however, is not to last.

**The Legislative Conflict**

The final data set, featured in figure 6-11, is drawn from the Senate Select Committee on Information Technologies hearings into the *Broadcasting Services Amendment (Online Services) Bill 1999*. This point in time was marked by a renewal of subsystem conflict with the release of the long-awaited Government legislation (the focus of conflict surrounded this Committee as a forum for debate on the legislation itself). This level of conflict was exacerbated by the original content of the new Bill, substantially different to the preferred position of the light regulation coalition in general (who had been willing to make concessions to government in 1997–8) and the government's "regulatory partners": the IIA. This difference meant that the IIA were placed in a difficult position in response to the new legislation, having been actively involved in the development of the co-regulatory system with the Department and ABA. Overall, the general deployment of the subsystem has returned to the "wartime footing" of 1996. The industry groups remain supportive of the principles of light regulation, and the Australian Computer Society retains its remarkably consistent position on the issue. With the release of the more aggressive legislative basis for regulation, a number of the pro-regulation groups have re-engaged with the policy process, throwing their support behind government action (the National Viewers’ and Listeners’ Association and PWA). The Gay and Lesbian Rights Lobby, concerned with the impact of censorship on the freedom of homosexuals to communicate about their sexual preferences and political concerns (Sant, 1999:2), also renew their interest in the debate (as do two other lobby groups representing homosexual interests) in the no regulation coalition, and the EFA, Internet Society of Australia (ISOC-AU), WAIA, and Eros Foundation all take a similar strong stance against the legislation, and specifically the use of blacklists to filter international content coming into the country, regardless of its intended audience.

![Figure 6-11: Dendrogram for 1999](diagram)

Overall, however, while conflict occurred over the stronger elements of the legislation, the outcome of the debate in early 1999 again reinforced the ascendant position of the light regulation coalition on the process of policy making. Government amendments resulting from this inquiry process (but not the Committee report itself), served to undermine areas within the original legislation which the IIA and ACS felt most concerned (as, incidentally, did many of the no regulation coalition members). Changes were made through significant exception and exemption of provisions within the Bill,
reducing the level of direct intervention by Government or industry in the flow of Internet traffic. Thus, while the legislation passed through the Senate (the key test of is parliamentary acceptability) with minor changes in percentage terms, it was a substantially different law, containing the basis for a strict content regulation system that was largely negated through exemptions connected with an Industry code of practice. Once again the pro-regulation coalition, recently brought back into the debate, cannot claim these final policy decisions as any form of concession to their views, with the “sharp end” of the legislation they most favoured negated through the Senate amendments moved by the Minister. The success of the light coalition, while not certain at the time, remains consistent with the dominance of their overall views on Government policy from 1997 onwards, and the position of the two national industry associations (the IIA for the Internet industry and the Australian Information industry Association for hardware and software manufactures / sellers), and the ACS in this coalition lent weight by their marketplace and industrial power. While the legislation could allow the ABA to act without a regulatory partner, the IIA might not have elected to become engaged with the regime originally posited in the initial Bill tabled before the Parliament (as it’s scope favoured the views of another (the pro-regulation) coalition). If the IIA had not received some form of concession through amendments, it may have pulled out of negotiation with government, leaving a vacuum at the industry peak level and doing serious damage to the underlying rationale of the regulatory push: co-regulation and partnership between the Federal Government regulating agency and single industry peak body.

(I) Key Agency Distribution
What is interesting to note is the changing position of Federal Agencies in 1999, as opposed to 1998. At the Senate Select Committee on Information Technologies hearings in 1999, the ABA (as regulator) and NOIE (as policy developer) were required to appear to explain the Government's new policy position, as released in the legislation and its explanatory memoranda. As is the custom of responsible government, these agencies were required to defend the policy in terms of their involvement with its implementation process (explaining budgeting decisions, the application of certain regulatory models or tools, why certain options will be more effective than others, etc.). Public Servants presenting to these fora (while often asked to do so by Opposition committee members) are not expected or required to make substantive assessments of the validity of the Government's policy. Consequently, the position of these organisations at this time reflects the direction of the unamended Broadcasting Services Amendment (Online Services) Bill. That this legislation matched neither preferred position of either body is evident in the distance they moved around the policy subsystem from 1997 to 1999. As we can see in figure 6-12 (which shows the preference for regulation, and estimated capacity of government to regulate) NOIE and the ABA had a very different view of the nature of regulation and potential success it might have. In moving into the positive view of intervention / high capacity to regulate sector of this figure [A] they show their adherence to government policy, and how far out of step these organisations were with the thinking of their political masters in 1998 (for comparison of the shift of position of consistent pro-regulation coalition member, the 1998 position of Young Media Australia is included)294.

Figure 6-12: Effect of Government Policy on Agency Relationships 1998–9

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294While, as discussed in the next subsection (III), the no and light regulation groups tend to move away from [A] to the lower points on both axes.
(II) Relations Within the Subsystem: the IIA “Sells Out”
While the final outcome of the legislative debate was a far more moderate position than that contained in the original legislation and preferred by the pro-regulation coalition, the tendency for the light regulation coalition to reflect industry interests, and the no regulation (with some notable exceptions, mediated by their EFA connections) to reflect user interests (ISOC-AU, EFA)²⁹⁵, lead to tensions. With the IIA negotiating with government about regulations that the no regulation coalition found highly objectionable, this tension came to the surface of the debate during most of 1999 and early 2000 with the IIA attracting criticisms for engaging with the process of content regulation (Yee, 1999; Heitman, 1999; Hayes, 1999a; Parsons, 1999). What these criticisms overlooked was the active movement of the IIA in advancing their coalition’s position and attacking the more conservative stand advocated by the Government in the original legislation. While the 1999 period saw tensions re-orient a number of groups in less moderate coalitions back into their wartime postures (the EFA, Young Media Australia), what is clear is that groups within the light regulation coalition also reacted by modifying the intensity of their views and position statements. Taking one example and plotting it out against longitudinally, figure 6-13 shows the deployment of groups views on the acceptability of pre-existing law to the online environment in respect of content concerns (name child pornography, defamation, etc.) in the policy subsystem.

Figure 6-13: Acceptability of Existing Legal Codes to Problem: Compromise to Conflict

²⁹⁵: Although claims of representation are not made on the basis of substantive user membership, both organisations remain small in terms of their member numbers.
What this figure shows is the way that positions on this one value changed in response to information exchange (analytical debate) and events in the policy subsystem. The 1997 and 1998 period of relative peace within the subsystem is clearly evident in the dips many groups have in the intensity of their views. What is important to note, however, is how the 1999 tensions erase these moderate positions. As consensus and compromise became the spirit of the time, the level of intensity of this view decreased. If we turn to 1999 we can see that while NOIE reflects the general policy position of the Government in increasing the level of proposed regulation (based on the view that the acceptability of existing law to the online environment was low, and therefore action should be taken in some form), many groups in the light regulation coalition (IIA, ACS, and AIIA) react in exactly the same way during 1999: increasing their support for the argument that existing legal codes are applicable to online content. This change of view leads to the argument that action (or more specifically the level of action proposed by the Government) is not required to address the minor problem. This argument is expressed to the same extent in 1999 by the EFA, ACS, and the IIA, regardless of their different coalition membership. Thus, while the IIA was criticised for its support of Government policy, this view is not entirely supported by evidence of its reactions at the time.

**Subsystem Distribution circa 1999: Implications for the Future**

With the introduction of the *Broadcasting Services Amendment (Online Services) Act* and subsequent registration of the IIA Code of Practice as the industry standard, Government policy moved into the implementation stage. During mid to late 1999 the new online content regulator, the ABA, began working to develop systems for the implementation of the online censorship regime, and a number of other administrative organs were under development: the "NetAlert" group to act as a community advisory
body with some research functions (Alston, 1999c), and an Administration Council to oversee the IIA Codes of Practice (IIA, 1999a). While the case study concludes at the start of the year 2000 (with the legislation coming into force), analysis of the composition of the policy subsystem from 1999 is useful in informing us about the direction of decision making in the implementation stage of the legislative regime. This is important when one considers the relationship between the IIA and ABA, and these two organisations and the Federal Government. For the IIA, the new legislation provides them with a legal status unmatched by rival organisations: they own the process of industry code development that allows them effectively to write elements of law and amend these outside of the parliamentary process. Essentially, this gives the organisation the status of controlling delegated legislation under the Act, albeit subject to regulation and negotiation by the ABA. What this means, however, is that in endorsing a role of the IIA (rather than encouraging proliferation of competing industry bodies), the Government followed the broadcast paradigm, with the IIA to become the online version of the Federation of Australian Commercial Television Stations (FACTS)296. The ABA, on the other hand, remains at arms length from Government, with increased responsibilities and powers over the online environment, and a new community body with which to liaise and from whom to take advice.

(I) "NetAlert" and the Administration Council

Late in 1999, the Minister for Communication announced the composition of the "NetAlert" group. This group was foreshadowed in the legislative debate (previously known as "Netwatch"297). NetAlert is designed to provide community oversight of the new censorship regime and provide information to the public. The organisation, run from Tasmania298, was initially comprised of eleven members: three from the light regulation coalition (two IIA members and Kaaren Koomen, now from Cable and Wireless Optus), one technical specialist with a government connection (Derek Whitehead an established of VICNET), Barbara Biggins of YMA and the OFLC, and the remainder non-policy subsystem members drawn from a variety of community groups and organisations. This selection of individuals is significant in two ways: First, the model of a "community" advisory group matches a Coalition Government policy that was applied to the OFLC with limited success (that of bringing the "community" into the censorship process as a

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296The comparison between the position of the IIA as the peak industry body, while related to the functioning of FACTS through the similarities of the television content regulation system and that for online content breaks down under scrutiny. This is for a number of reasons: First, and most importantly, as examined in Chapter Five, the benefit of the ABA-FACTS co-regulation model lies in the capacity for all players in free to air television to be identified and engaged in the FACTS process. This is not the case with the IIA, as a large number of Australian ISPs are not members of their "industry peak body" (although inclusion of their voice in the say of the IIA becomes more important now the Association, through its code, is an integral part of the regulatory system); Second, the different size of industry players in the provision of online services is wide, from large, diversified international corporations (such as America Online) to very small operators (such as Eagles Internet). These differences mean industry players have vastly different capacities to engage with the regulatory process and explore different options in their adherence to the new regulations; and, Third, while the FACTS code uses internal censorship officers to review and classify content for free to air television, the online industry is externally scrutinised and content vetted by another body (the ABA in the first instance, with referral to the Office of Film and Literature Classification).

297This name, however, clashed with a different organisation running a self-regulatory regime in the United Kingdom.

298While the three million dollars put into NetAlert could be seen as a porkbarrel to Tasmanian Senator Brian Harradine for supporting the Broadcasting Services Amendment (Online Services) Act 1999 this money comes from another policy debate: the partial sale of Telstra, a vote taken after the Broadcasting Services Amendment debate. The money may, therefore, still be pork, but of a different flavour (a fair assessment, given the ABA, the organisation NetAlert is to advise, is a different State).
counterbalance against "professional" censors); and, Second, the approach shows the
Minister's predilection against the technical community (contained within the light and no
regulation coalitions) who were, generally, more hostile to government intervention. By
establishing an alternative source of advice away from members of these coalitions, the
Minister has established a fora more amendable to access by members of the pro-
regulation coalition. Given this composition, NetAlert may be a future focus of
subsystem conflict and debate.

Table 6-2: Composition of the "NetAlert" Group

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Karyn Hart (Chair)</td>
<td>Principal: Rochedale State High School</td>
</tr>
<tr>
<td>Glenn Alderton</td>
<td>Director: Internet Industry Association</td>
</tr>
<tr>
<td>Barbara Biggins</td>
<td>President: Young Media Australia</td>
</tr>
<tr>
<td>Judith Bundy</td>
<td>Executive: Australian Council of State School Organisations</td>
</tr>
<tr>
<td>Peter Coroneos</td>
<td>Executive Director: Internet Industry Association</td>
</tr>
<tr>
<td>Kaaren Koomen</td>
<td>Group Manager: Multimedia Regulation &amp; Policy, Cable &amp; Wireless Optus</td>
</tr>
<tr>
<td>Josephine Lonergan</td>
<td>Executive Director: Australian Parents’ Council</td>
</tr>
<tr>
<td>Bernadette McMenamin</td>
<td>National Director: End Child Prostitution in Asian Countries (ECPAT)</td>
</tr>
<tr>
<td>Lynette Quinlivan</td>
<td>Legal Practitioner</td>
</tr>
<tr>
<td>Derek Whitehead</td>
<td>Deputy State Librarian: State Library of Victoria</td>
</tr>
<tr>
<td>Tom Young</td>
<td>Owner/Manager: Computers + More</td>
</tr>
</tbody>
</table>

source: Alston, 1999c

Similarly, while the IIA has not, at the date of writing, finalised it's Code or Practice or
determined the composition of it's "Administration Council" to oversee the industry code, it has given a number of indications to the organisations intended composition of this body. The Council, at the time of drafting in mid 1999 version five of the code was intended to include (IIA, 1999b):

"(a) an independent chairperson by the nominated consensus from among the industry and user representatives of the Administration Council and approved by the Board of the IIA;
(b) two representatives from the Internet industry nominated by the Board of the IIA; and
(c) two user representatives nominated by the Australian Consumers Association."

This composition, while unsurprising in its weighting towards control of the membership by the Association (the Code is the Association's Code of Practice after all), is significant in leaning towards the Australian Consumers Association (ACA) as representing customers as opposed to other groups from within the policy subsystem that claim a representation on online users (EFA or ISOC-AU). Given the EFA and ISOC-AU's deployment in an advocacy coalition opposed to the regulatory regime supported by the IIA, their exclusion from this body is consistent with the level of tensions between the light and no regulation coalition. Thus, the tendency of the IIA to reinforce these administrative organs with members of the light coalition and supporters of the approach taken by the IIA (the ACA's Policy Manager Mara Bun stating the IIA had "maturity" in involving the ACA in their Code development; Parliament of Australia, 1999e:200) will shape the way the Code develops post 1999 (given this Administrative Council is finalised in this, or a similar, form).

Conclusion

This chapter explored the application of Sabatier's research methodology and theoretical understanding of the nature of policy making to the case study detailed in Part II. What this analysis has shown is how the policy subsystem influenced and reacted to changes in Government policy on the issue of online content regulation. Of importance in the analysis of the case study material is the way in which the policy subsystem formed, not in 1988 with initial Federal government interest in the issue of online content, but in the
early 1990s through concerns stemming from computer game regulation and the censorship subsystem. While the Gibbs inquiry process did not serve to "kick start" the issue, the growth of the technology (in terms of market share, utility, and therefore usage) created a greater level of non-governmental involvement in the political process in the 1990s, escalating during periods of conflict (1995–6, 1998–9), and substantially reduced during a period of compromise and learning (1996–8). The development of the subsystem itself matched the model presented by Jenkins-Smith and Sabatier, showing how an issue moves onto the public agenda, becomes politicised, and, as in this case, moves into a process of ongoing analytical debate between three generally stable advocacy coalitions: one advocating a proactive criminal law response to what they identified as an urgent problem, one looking to a co- or self-regulatory regime based on light intervention by government, and one seeking to defer regulation for as long as possible.

What is interesting to observe in the analysis of this case is that movement around the policy subsystem for some groups is based on their acquisition and utilisation of technical knowledge to the perceived policy problem (this point being best illustrated by the temporary formation of the "PICS solution coalition" in 1997). More commonly, however, technical understanding of the issue is not particularly responsible for the alignment of groups at notable stages of the debate. Thus, while some groups and individuals remained highly stable in their position in the policy subsystem regardless of the coalition they were in (such as the Association of Heads of Independent Schools of Australia, the Australian Computer Society, Irene Graham, Robin Whittle), others were more fluid, reflecting their political stance in response to the political climate of the day (the Internet Industry Association and Electronic Frontiers Australia). In the final analysis, while the short timeframe of coalition formation to date may have limited the level of observable change based on policy learning (a factor that may be substantially altered with the move into implementation and the learning that may result from this more practical side of the policy cycle), the future of the policy subsystem will be influenced by the establishment and composition of administrative organs such as the IIA Code's Administration Council. Overall, however, this analysis lacks a number of key points in time, reflecting the sample bias of Sabatier's approach and it's dependence upon the existence of sources of primary materials for analysis. Additionally, in charting the relative position and reactions of some groups to change, and exogenous impacts upon the policy subsystem, the rationale for some group and individual actions (to move or to remain constant) is not explored. The question remains: why do some groups remain constant in their position, some change over time with predictability, and others move depending on political climate of the day? Considering these question, Chapter Seven again presents another analysis of the case study, this time presented using Rhodes's view of Governance as the analytical tool to explore and explain the case. In considering the unanswered questions left by Sabatier, the parallax presented by Rhodes's approach will help lay the foundation for a critique and theoretical reformulation presented in Chapter Eight.
**Chapter Seven**

Results of Rhodes's Model of Governance

**Introduction**

The Policy Network

- The Pre-Policy Network Period
- The Insiders I - Institutional Members
- The Insiders II - The Interest Groups
- The Edge - The "Linkers"
- The Outsiders I - The "Industry"
- The Outsiders II - The "Community Groups"
- A Typological Identification

The “Game”

- In the Transition - From BBS to Internet
- The ABA Investigation
- The NSW Draft Legislation
- The 1997 Principles
- The Legislative Debate I: Relations within the Network
- The Legislative Debate II: The Importance of Institutional Actors

**Conclusion**

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**Introduction**

As discussed in Chapter Three, the Rhodes model provides a means of researching the policy making process through the identification and evaluation of policy networks. These networks, while residing at the "subgovernmental" or intermediary level between the public and private spheres, provide both the key unit of analysis for the researcher and an essential part of the thesis of governance presented by Rhodes in his later work. Underlying this focal point for research is the power-dependence framework which provides action to the network model, explaining both the interpersonal relationships between network members, and linking appreciative systems to the various strategies employed by groups and individuals. This theory provides an "engine" for the process of governance: justifying the importance of networks both in terms of the way that bargaining and negotiation are important in policy development, but also the rationality behind why mutual exchange relationships form and last over time. As explained in Chapter Four, Rhodes's research method is based on the use of the background case material—as presented in Chapter Five—and primary research gathered from interviews of members and potential members of the policy making network. The interviews are drawn from an initial sampling frame (contained in Appendix 7.1) resulting in thirty-six interviews (for a complete list of interviewees, please refer to Appendix 7.2).

This chapter explores the policy making process that culminated in the introduction of the *Broadcasting Services Amendment (Online Services) Act 1999*, using the Rhodes model as our deductive and explanatory tool. The chapter is divided into two parts: First the policy network surrounding computer network content regulation is described, identifying groups that were central and peripheral to the policy making process, and placing the network within Rhodes's typology. This description is important in identifying both the focal point of policy development (including the key players in the policy making process), as well as providing a measure of Rhodes's core element of the governance thesis: that policy making is largely contained within quasi-autonomous policy networks. Second, a number of various key decision points in the policy making process are investigated, using the power-dependence framework to examine the relationship between groups in the process. This Section provides explanation of the events of the
case study, detailing events and the strategic players of groups inside and outside the policy network. It also provides an explanation of the variety of political activities groups and organisations engaged in to get their preferred policy preferences adopted, as well as allowing for the cross-verification of network roles: that of insider groups as powerful, and outsider groups as powerless.

What this analysis shows is, while the overall pattern of policy making has been contained within a distinct policy network that has come to dominate the policy area between 1997-9, power-dependence between members of the policy network does not totally explain the manner in which policy making was undertaken or the shape of the legislative response introduced by the Government in 1999. What the chapter concludes is that Rhodes's de-emphasis of the role for State institutions in favour of the concept of governance limits the applicability of his model where legislative decision making is critically important and key elected actors control the legislative process. This becomes especially true in the case of computer network content regulation, where larger political debates influenced the nature and timing of the political debate over censoring the Internet in Australia. In introducing these criticisms, however, it is possible to see the value of an expanded use for power-dependence in explaining the actions of network members who have stronger dependencies to other organisations and groups that exist outside of the policy network, a critique that is explored fully in the subsequent chapter.

**The Policy Network**

In examining the case study of computer network content regulation it is important to note the incredible amount of action, change, and learning that occurred between 1994 and 1999. While the statement "The Internet runs on dog-years" has become rather clichéd through over-use, there would be few areas in Australian policy making that have had such a frenetic amount of policy development, inquiry, and change as has been seen in this area of regulatory policy making. Over the five years leading to the introduction of Commonwealth legislation, five Senate Inquiries, one exhaustive Agency Investigation and two Departmental consultation processes were undertaken, each specifically focused around the issues the introduction of the new computer communications technology brought to Australian policy makers. During this time of change a wide range of interest groups and bureaucrats had dealings with the policy making process, some becoming entrenched in the issue, others moving on to different areas of public and private life. In some respects this is not unique with issues that become "hot" on the public agenda, where entrenched interests and policy makers are cast into the role of delivering policy solutions rapidly to an eager public. As seen in the work of Kingdon (1994), these "policy windows" are exceptional periods where solutions can be delivered onto the public agenda in response to old, but unaddressed, political concerns or social problems. Where the Howard Government's response to issues like gun law reform can be seen as classic crisis event management in this mould, the case study presents a uniquely new and interesting example of policy, where as infant technology created a wholly new social, commercial and political reality that governments became embroiled with.

To examine the case study we start with an examination of the shape of the policy network that dominated the issue of computer network content regulation. While the case study presented in Chapter Five has identified many of the key players who engaged in the public debate, it is important to note that Rhodes's approach, unlike that of Sabatier, is quiet selective in the groups and individuals that can be seen as key players in the political process. Additionally, the Rhodes model stresses continuity of interaction and provides us with a distinct way of visualising the network structure: unified, with shared network-specific behavioural norms (the "rules of the game"), and

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299 Attributed to James Gosling (29 May 1996).
motivations to exclude others from the benefits (and constraints) of the exercise of
governance. However, while Rhodes's view that networks are easily identifiable by
breaks in the pattern of resource dependencies—with action taking place only within the
network—it is important to include the role of groups external to the network because of
their interest in the policy process, and therefore, their desire to have a significant impact
on the policy making process (which, under Rhodes conception, means becoming
members of the network structure). What this section will do, therefore, is examine the
structure and composition of the network and its impact on the process of policy making,
while also examining the role of those groups clustered around the network membrane,
looking for a way to realise their political goals through inclusion in this favoured "elite".

The Pre-Policy Network Period
The introduction of personal computer communications equipment into Australia created
the private networks of hobbyists that were to form the Bulletin Board System (BBS)
community. However, as a new policy area within communications and censorship, the
arrival of computer networks in Australia failed to create the type of public concern that
lead to the immediate formation of a policy network concerned with BBS content. While
advent of BBSs in Australia in the mid to late 1980s and increasing media concerns
about the misuse of computer communications technology for cracking activities did
produce political interest in the technology (and especially it's misuse), in the context of
BBSs the limited scope of their activities and difficulties for legal investigation
constrained the amount of political interest in regulating this developing technology.
Prior to the introduction of the Internet, the BBS community consisted almost exclusively
of hobbyists and computer professionals who were often using the systems in their
spare time. This was because of the small reach of computers and modems into homes
but also the more limited spread of the skills required to use computer-communications
technology. Thus, while the problems surrounding the issue of BBSs tend towards
increased government interest in the activities and content of BBSs, the legislative
response to the problems of cracking remained a singular exercise that lacked wider
debate and political decision making. Taking an organic metaphor, the work of the
Gibbs Inquiry into Computer Crime can be seen as an evolutionary dead-end, stemming
from the same stream of concerns generated by the development of computer network
technology, but failing to reproduce into the type of ongoing relationship of groups and
policy makers that justify its inclusion into a policy network based around the issue of
computer network content regulation.

Over its lifespan, the BBS community was largely self-regulating in the way that
problems within the community were addressed. Terry Harvey, currently the principle of
Eagles Internet, and a former BBS System Operator (SysOp) for many years in
Sydney notes (interview: 19/2/99):

300 Prior to the 1990s, this market was aimed at the technically-competent consumer willing to
pay for specialised and commercially-oriented equipment.
301 However, some of the issues contained within the changes made to the Crimes Act 1914 were
revisited when the Australian Security Intelligence Organisation (ASIO) had its powers expanded
to allow for legal cracking by ASIO staff in 1999.
302 While BBS systems still exist (in 2000), their number has been rapidly reduced with the
advent of the Internet. As a "community" many of the BBS users and SysOps have moved out
of the area into Internet-related activities.
303 Mr Harvey is unique in the BBS community for a number of reasons: he was one of the few
SysOps to successfully run a commercial (fee-paying) BBS system and he was and is a serving
officer with the New South Wales Police Force. Now the owner of a local ISP Mr Harvey is one
of a generation of former BBS SysOps to converted their operations into Internet Services with
the development of the technology. Originally for Mr Harvey this began as a sideline to the BBS
service, but with the advent of graphical browsing overtook the BBS, which was shut down in
1997 due to lack of demand.
"the big issue for us was the other system operators logging on, which is computer fraud. Logging on, generating accounts, because we always had free public access, you've got half an hour a day and file to file ratio, and you would find they would upload crap files to get the good quality stuff that we had online. They would rename files and upload it fifty times to maintain their upload to download ratio."

As Monika Tomasek, a former BBS user and SysOp notes (interview: 19/2/99) the community of BBS users was very close during those days because of the limited catchment of users for each system. Prior to the development of limited international networking for BBS email, BBS users were largely limited to systems in their local area (because of the expense associated with long-distance telephone rates), and BBSs had a limited maximum number of users (because of the dependence of each user to have their own telephone line into the system). Therefore, unlike the global reach and anonymity of the Internet, regular users were part of a social community that had its own rules and was strictly regulated by the SysOp. As Terry Harvey states:

"Because you had so much control of the system as a BBS, you could actually watch what was happening, you'd [see] people who must have thought that you were absolute idiots, but they wouldn't have enough time to download a particular file, all of a sudden you'd get a new user logging on and going straight to the file area and trying to download that file."

Thus, regulation of the BBS community was mainly served by SysOps enforcing whatever rules or social controls they deemed fit on their own systems, and allowing word of mouth (or experience) to demonstrate to others what norms would be tolerated on certain systems.

Where the BBS community did butt up against the outside regulatory environment mainly resulted from the use of illegal modems (regulated by the communications regulator, Austel, which had the power to search for modems that had not been approved for use on the Australian telecommunications network), and also adult content and cracking. Terry Harvey observes:

"What you saw happen too was the adult BBSs popped up, that were specialising specifically in adult-orientated material. That became a bit of a concern to some police and a few places got raided ... but generally there were very, very few raids because the level of expertise in law enforcement was woeful."

additionally:

"Back in those days the [cr]acker BBSs were unbelievable, some of them even had nine inch nails, a board with a nine inch nail sitting above the hard drive, so if it got raided, [they would push it] straight through the [drive]."

What was clear to many in the BBS community is that, while there was some interest by regulators (especially police agencies) in some of the illegal and borderline activities of members of the BBS community, the will and ability of law enforcement to regulate the community was limited.

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304 Through the FidoNet system where BBSs become members of a hub and node network for the exchange of electronic mail. This system entered Australia in the late 1980s.

305 Thus many BBSs would use only one telephone line (especially hobby systems) allowing only one user to be able to log-on at one time.

306 As the issue of computer-related crime was predominantly handled within the States and Territories, it was handled differently by the various jurisdictions. Where law enforcement became involved early in the computerisation of the Australian society, it was mainly focused on fraud within organisations (Sindel, 1978:1).
In 1987-8 the Federal Government became interested in cracking, especially as many of the key targets of computer crackers were government or quasi-government machines\textsuperscript{307}: mainframe systems with either sufficient computing power to run big applications, or communications links outside of the country. These concerns were added to the work of a Review Committee into Commonwealth Criminal Law, headed by Sir Harry Gibbs\textsuperscript{308}. The general aim of the Review Committee was to examine and propose amendments to the \textit{Commonwealth Crimes Act} in light of legal and legislative developments, updating and rationalising the legislation and introducing provisions that would allow the Federal Police to act with greater certainty in the likely success of prosecution (Review of Commonwealth Criminal Law, 1988:59-61). What the review process did not examine, however, was the role of some BBSs in the distribution and storage of illegal materials\textsuperscript{309} and as a meeting place for crackers to form communities and exchange information about potential targets and techniques. Sir Harry Gibbs's (interview: 19/2/99) view of the process is instructive in the relative lack of importance given to the issue at the time by the Commonwealth. For him, reviewing the criminal code with regards to computer intrusion was simply a minor part of the overall process of legal review with which he was engaged. Where the issue of computer misuse had been featured in some press reporting, and had been picked up in the public consciousness through entertainment media, the misuse of computer communications was seen by the Commonwealth in a particularly narrow way: that individuals might attempt (for either personal or other reasons) to access a Commonwealth computer system. By focusing on these machines in developing a set of amendments to the \textit{Crimes Act 1914}, the Review Committee did not develop an interest in the private systems that were controlled by, or sympathetic to, the cracker community. Rather than attempt to tackle the problem via expanding laws into private computer systems, the Review Committee focused on the act of cracking computers under the Commonwealth jurisdiction rather than any of the supporting activities\textsuperscript{310}.

The limited number of submissions to Gibbs's inquiry illustrates the perceived importance of the issue: less than twenty submissions were made to the Review, of which more than half were from Commonwealth Departments concerned with their own system's security. Of all the submissions, the only "industry" group was Telecom Australia, concerned because of the way that computer cracking utilised the Telecom and OTC networks\textsuperscript{311}. In achieving a legal recourse against potential crackers, but not forcing the issue of wider behaviour of users of private networks like BBSs, the process of the legislative review failed to create a catchment of groups that could form ongoing exchange relationships within a policy network. BBSs, largely lacking any profit motive, or organising interest group\textsuperscript{312}, did not enter into this debate, even though legislative

\textsuperscript{307}Such as the networks controlled by Telstra, the Overseas Telecommunications Commission (OTC), or the CSIRO.

\textsuperscript{308}This area was an additional request added to the original Ministerial Direction. The request was not issued until a year after the original Direction was issued and stemmed from concerns raised by SCAG Ministers about the issue of cracking.

\textsuperscript{309}Pornography, cracking software and information, and pirated software.

\textsuperscript{310}Therefore the crime of cracking was based around the access or attempted access of the individual to the Commonwealth computer, rather than the conspiracy behind the action (if any) or the development or distribution of the software and data required to undertake the crack.

\textsuperscript{311}Technicians associated with Telecom and other institutional networks attacked by crackers were often involved in investigating the breaches at some expense to their organisations.

\textsuperscript{312}Without a central administration, the BBSs were unlikely to seek or desire any form of central administrative or political organisation. With the introduction of the FidoNet networking system for electronic mail, some of the BBS SysOps did gain status in the community as regional or national coordinators, but this was mainly concerned with maintaining the FidoNet system, rather than interfering with the internal activities of BBSs themselves. FidoNet, unlike the Internet, was
Australia’s Online Censorship Regime

changes would bring some of their number under the attention of the Federal Police. Dreyfus (1997) in her book about the culture of cracking in Australia illustrates that, while the introduction of increased legislative coverage of cracking activity and increased the amount of Federal Police involvement with these crimes\(^{313}\), this issue remained solely at the level of law enforcement and evasion, without a significant political component. Thus, the period between the introduction of personal computer communications equipment in the early to mid-1980s and the BBS Taskforce in the early 1990s lacks any consistent policy network, rather reflecting the type of temporary arrangement of actors to respond to a perceived problem that Benson (1982) called an “action set”. This set is noticeable in the way that few of the organisations (and none of the individuals) involved in the 1988 review re-emerged into later debates about BBS and Internet content.

The Insiders I - Institutional Members

In essence, while the issue of computer network content regulation includes work undertaken in regards to Bulletin Boards\(^{314}\), the rapid expansion of the Internet in Australia led to a very quick conversion of interest from BBSs to Internet content. Between 1993 and 1999 of the case study, there emerged from the political debate over Internet content, a distinct, but limited policy network surrounding the issue of Internet censorship. This network was largely comprised of a number of Government Departments and Agencies, Ministers and their Advisers, State and Territory Censorship Ministers, and a very limited number of pressure groups. The nature of the policy network is shaped by two factors: First, at a formal level among governmental units and politicians, the complex and convoluted way that censorship policy is divided federally meant that a large number of organisations had to be involved in the process because of constitutional requirements. Within the Federal Government itself, division of responsibility between the Attorney-General (for censorship) and the Minister for Communications (for communications technology) meant that a double bureaucratic presence was required for policy development and negotiation. Second, because of the rather prototypal nature of the policy and industry structure, the period leading to the introduction of the Broadcasting Services Amendment (Online Services) Bill 1999 was largely lacking a wide scale number of resource-dependent relationships between government and the private sphere. Certainly no pre-existing relationships were included into the policy network, and some of the key participants in the later debate were yet to exist.

Figure 7-1 shows a map of the resource-dependencies that existed between groups and individuals within the governmental sphere over the issue of Internet censorship. Each of the groups is linked together by mutual exchange relationships that are largely determined by either their constitutional roles in the policy making process, or via intergovernmental, interdepartmental, or inter-agency agreements and co-operative rules of the game where joint policy making or implementation is required. Relations were structured by the division of responsibility between departments, and the roles to which individual Departmental Officers would be assigned in working groups. As seen in Chapter Five, censorship issues necessitate these decision making structures, where long-term intergovernmental negotiations have produced agreements about the way that

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\(^{313}\) The Australian Federal Police (AFP) developed a computer crime unit in 1990 (AFP, 1991:28) and reports some success through their Annual reports (AFP, 1994:21, 1995:22, 1996:19–20). However the activities of this unit (and law enforcement in general in this area) has been the ability to develop and maintain the skills required to investigate these and similar crimes (AFP, 1997:24–5).

\(^{314}\) The Bulletin Board Taskforce formed the basis for later joint departmental work by Communications and Attorney-General’s on Internet content issues.
censorship issues will be handled by the Commonwealth in agreement with its colleagues in the Standing Committee of Attorneys-General (SCAG). However, these formal connections and agreements were also supported by informational exchanges and discussions between legislative policy makers and regulatory agencies. As Steven Nugent of the Australian Broadcasting Authority (ABA) notes in regards to discussions about legislative amendments in 1999 (interview: 29/6/99):

“We, sort of, became aware of them and, it was more we were ... told about them, provided with some reference material indicating what they might be, rather than the sort of detailed with the wordings of the legislation, a broad over view of things might be, more for information than for comment. So it was a case of keeping us in the loop of what was going on, but not really, by way of ... asking for substantial comments on what was proposed.”

These forms of informal discussion were useful, not only in maintaining professional courtesies between bureaucrats, but also where policy makers and policy implementors were separated by constitutional or legal rules separating jurisdictions. Good regulatory policy depended on an accurate assessment by policy developers of the operating conditions and capabilities of implementing agencies.

Informal political considerations also motivated Ministers in their use of Agencies over Departments to engage in investigations of policy development. While the Minister for Communications can justify the use of organisations like the ABA to engage in policy development and delegated decision making on the grounds of expertise, the political utility of these structures is also a key consideration. As Michael Lee stated (interview: 23/6/99):

"the benefits for the Minister that has a body such as the ABA or the Office of Film and Literature Classification to make those sorts of decisions are that, if the decision is unpopular then I can say, 'Well that's the decision of the independent body', or if the decision is difficult then and as a Minister I perhaps might not want to have responsibility for approving or rejecting or restricting access for something"
These concerns were not simply held by Labor Ministers, with coalition members recognizing the inherent and unavoidable problems associated with issues involving censorship. Daryl Williams (1997) was aware of this problem, with any move on censorship issues attracting criticisms from either side of the debate (lessening or strengthening).

Also linked to the policy network are Parliamentary Committees that undertake investigations into policy areas. In the case of Internet Censorship, the Senate Select Committee on Community Standards Relevant to the Supply of Electronic Technologies and the Senate Select Committee on Information Technologies provided a lot of impetus into the public debate. By nature these Committees are linked to the institutional structures of the Parliament and Parties, feeding their reports back into the Parliamentary environment and providing members with areas of policy to develop expertise in. However the impact of the Committee process on the views of the Executive is questionable. As Michael Lavarch, Labor Attorney-General observes (interview: 29/12/99):

"Senate Inquiries are inevitably sort of grandstanding vehicles on behalf of particular fashionable issue of the day ... But, you know, no one within the Executive ever took these inquiries with any particular seriousness. Honestly, I mean, there were Senate inquiries bloody left, right and centre, I mean, no, no, if you got bloody concerned or jumpy or took note of every time the Senate started doing something that's all you'd do. No, No. I would have no idea even what they said or done or what evidence they took or the reports, so that's what impact they make on me or anyone within the actual Cabinet, we all took very little notice of Senate Inquires."

While the relative importance of Committee reports is questionable, those individuals who serve time in their hearings develop both expertise in the policy area, and an interest in the outcome of the political debate. So while Senator John Tierney (interview: 9/3/99) saw Internet Censorship as "a second or third order issue really", his interest in it continued after his status in the Parliamentary Party rose in seniority because of natural curiosity and past involvement. Committees too, serve a political value, even if their reports are ignored. As Senator Margaret Reynolds (interview: 9/3/99) notes:

"I don't think you can underestimate that much of this Committee was effectively about ensuring that Senator Harradine was listened to and Senator Harradine's views were taken into consideration and that there was no point in rocking the boat and on an issue he didn't need to be upset. But, that's me articulating that, nobody ever said to me 'Margaret go into that Committee and just keep it, keep things rolling along.' But there was certainly an unwritten or unspoken assumption ... certainly Keating's Office was perfectly happy to see us continue as we did in 1995."

Thus, parliamentary committees do form a part of the policy network, even if their influence is often tangential to the work they do and the motivation to establish, maintain, or dissolve the committee is dependent on wider political considerations of the day.

While Departmental and Agency relationships were very important in the policy network, the policy co-ordination role of Ministerial Advisers was also critical in these institutional resource-dependencies. Where Ministers and their Departments / Agencies have strong formal connections on paper, it was Advisers who made up the bulk of Ministerial Office–Bureaucrat interaction. Carina Chapman (interview: 13/8/99), a Ministerial Adviser to Liberal Richard Alston, saw her Minister's Department as:

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315 Additionally, Reynolds notes that "Michael [Lavarch] certainly gave every impression that it was quiet a useful thing to be dampening this down as an issue".
"very easy to work with. They've got all the knowledge, largely, and you can find any amount of technical knowledge or policy advice in various parts of the Department, you really just need to go and look for it. It works from a level of picking up the phone and saying 'I don't understand what this is all about', a bit in the Act, or a policy issue that someone's come to talk to me about, or any particular problem, to 'Can I please have a written brief for the Minister?' or 'Can I please have a written brief on X, Y, Z?' or 'Could you provide legal advice?'. It's a very interactive, it's very close. You spend an enormous amount of time talking to the bureaucracy. They are your lifeline in many ways. But a line, they're not enough, you need to have input from industry."

Additionally, this role is supported by Advisers liaising with their counterparts in other Ministerial Offices, and assisting in the co-ordination of policy between Departments. Debra Richards, an adviser to Michael Lee, observes (interview: 26/6/99):

"and all that process of sort of joint Department stuff can be very complex in terms of trying to come to a decision on somethings, or indeed get a policy decision from both the Ministers at the same time on the same issue."

Certainly, having other advisers squared up on policy issues was a key part in ensuring that the issue would proceed, both at a Departmental level, and further into the Cabinet process.

Therefore, Advisers served beyond the level of policy advice: considering the general stance of the Party on the particular policy, but also the wider political considerations of the nature and timing of legislative action. In Alston's Office, advisers engaged with the Minister through regular "planning days", considering strategy and priorities as a group, but also through informal discussion about particular events and the directions of individual policies under consideration. This position, close to decision making, but with the time to focus on policy detail and meet with interest groups, provides Advisers with a key access point in the policy making process. Maley (1999:4–17), from her research into the roles of Ministerial Advisers under the Keating Government, sees Advisers as having up to five key roles: Setting the political agenda; Linking ideas, interests, and opportunities together; Mobilising political support or pressure for a particular policy initiative; Bargaining and negotiation, and thus; Delivering policies into a decision.

Certainly Carina Chapman saw her role close to the centre of policy development:

"You are the middle person, you are the person closest to the Minister. You're gathering everything together to then advise him. It's everything from advising on the direction of any particular policy measure to take. Advising that you should look at a particular policy issue, that's very important, and then once you've made that decision, then gathering information from the Department, from interest groups, from keeping you hand or a feel on where the population's coming from, it's relevant, particularly in the last few years, formulating it, together with the Department I mean they do a large amount of the work, but steering them as to how it should take form and then tracking it through Cabinet, if it needs to go to Cabinet, and then obviously to legislation if it needs to go through legislation and then negotiating it and trying to get the damn thing through the Senate. And then, afterwards, anything from regulation to be made to further clarification of the policy, or in the case of Internet content, putting together the Netwatch [NetAlert] group ... to ensuring the industry puts together its code of practice and basically monitoring it."

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316Within which she observed that her bargaining and negotiation skills gained from legal practice were "very important in government".
Overall, while Advisers serve as highly important parts of the interface between Ministers (by nature busy with their wider portfolio responsibilities, party, and parliamentary responsibilities) and bureaucrats, Advisers also served the policy network as a key interface between their political masters and the views of interest groups, a key relationship to which we must now turn.

**The Insiders II - The Interest Groups**
While the resource-dependencies between Governmental units make up the bulk of the policy network for Internet censorship, the full network (in Figure 7-2) includes a limited range of private interests that formed resource-dependencies with Government. While Chapter Six has demonstrated the wide range of interests engaged with the debate over computer network regulation, Rhodes's "acid test" of influence—the power-dependence relationship—limits the number of "insider" interest groups to two: The Internet Industry Association (IIA) and Young Media Australia (YMA). While the involvement of the YMA in the process appears limited by the weakness of the organisation's capacity to develop and exploit resource-dependencies within the network, the role of the IIA became highly important in the activities of the network, as the Association emerged as both pre-eminent among industry groups, and willing to trade dependency for access to the policy making process. This process evolved over time, with the IIA emerging from a number of rival associations and developing its structure in the second half of 1997 and truly formalising its resource-dependencies within the network when the *Broadcasting Services Amendment (Online Services) Act* was brought into effect and the IIA's Code of Practice confirmed by the ABA as pertaining to the Internet Service Provider (ISP) industry\(^\text{317}\) in late 1999 (ABA, 1999). The two groups, however, lacked an exchange relationship, and direct interaction between them is totally absent.

![Figure 7-2: The Policy Network\(^\text{318}\)](image-url)

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\(^{317}\)While the ABA was free to consider any industry code of practice for acceptance under the Act, it was clear that the IIA's code was the forerunner, both in terms of its content, and also in the way the IIA had been singled-out for special industry negotiation just after the announcement of the legislation in 1999.

\(^{318}\)Note this figure shows the resource-dependency linkages illustrated in Figure 7-2 as single faint lines.
Young Media Australia, based in South Australia, is concerned with the issues of the effect of media content on children. The organisation has traditionally focused its lobbying and other political activities around television and film content, and has forged contacts with like-minded groups in the United States (from where it has sourced much of its research material) and other "Family Associations" in Australia. Financially, the group is largely dependent on "corporate" membership of the family and early childhood associations, and government funding for specific programs, activities and the general maintenance of its premises, web site, and administration (Jupe, interview: 10/3/99). The organisation's interest in Internet content is directly related with its general mission statement concerning itself with all forms of media that may be viewed by children (YMA, 1997), and thus the group became involved in the issue around 1996, but has remained only peripherally involved in the policy debate. YMA, however, retains two exchange relationships within the policy network: first, through Barbara Biggins, who heads the organisation, is intimately involved with the Office of Film and Literature Classification (OFLC) as the Chair of the Classification Review Board and through her past involvement with the Law Reform Commission process that developed the classification schema. This formal position gives her both an input in the regulatory process for media censorship and access to policy makers through the OFLC and Attorney-General's Department. Therefore, in engaging in work for the OFLC, Biggins

319 In the past the organisation did run a commercial service renting quality children's film reels, but with the advent of videocassettes in the 1980s this service was discontinued.

320 Appointed by the Labor Government in 1994 her term was extended by the Coalition Government and is set to expire in 2004 (OFLC, 1997:74).

321 Biggins was appointed to the "NetAlert" Board in late 1999, further strengthening her connections into the policy network (Yiacoumi, 1999a). NetAlert formed a community advisory panel attached to the ABA regulatory role for Internet content.
also has the time and access to promote the interests and views of YMA. Second, YMA effectively sells services to both State\textsuperscript{322} and Federal Governments. The organisation has established a small ISP presence in Adelaide where it runs its Cybersafety Courses: informational sessions for parents and children about safe use of the Internet to avoid content inappropriate for children (YMA, 1999).

While connected to the network through shared membership and resource dependencies with the Department of Communications, Young Media Australia has a limited view of its capacity to influence policy. As Tony Jupe observes:

"I guess being realistic about these things, considering the current Federal Government has a self-regulation, or deregulation policy on most of this stuff, we see it as pretty much a waste of our time and energy to go on and on about tighter regulation or more regulations or better regulations. Particularly in the online area where it's so difficult to get any agreement on any form of government regulation. So having worked with people like Peter Coroneos from the IIA, well not worked with him, but seen the work they've done on their code of practice, although the bulk of that has nothing to do with content and it's impact on kids, but they're taking a very responsible attitude, so we're pretty confident [about a positive outcome]"

This capacity to act is also limited by the very dependencies that included YMA in the policy network. Because the association competes for funding for specific programs, a large amount of the organisations time each year is spent attempting to find the funding to continue for another year. Thus, while the YMA could develop its role in the delivery of information to parents about online safety through developing a resource dependency, this was largely a one way exchange relationship. During the second half of 1998 and early 1999 the organisation was trying to find a way to continue the Cybersafety project, a task that Heinrichs (1999) sees the organisation as having difficulty realising\textsuperscript{323}. This problem also interposed itself in the organisation's lobbying activities with Jupe spending a reasonable part of her appearance before the Senate Select Committee on Information Technologies bemoaning the lack of government funding to the project\textsuperscript{324} and the organisation in general (Parliament of Australia, 1999e:226–42). An activity that failed to impress Government Senators, but which the Opposition Committee Members were happy to discuss in some detail. Overall, these problems severely limited the activities of the organisation in the network, relegating it's role to minor pressuring and little else.

The IIA, on the other hand, has a more recent formation - initially developed as a merger of two industry associations, the Internet Industry Association of Australia (IntI AA) and the Australian Internet Association (AIA). Of all the members of the policy network, the IIA is the only wholly new organisation, forming out of two bodies that developed circa 1995. Originally, these organisations were loose temporary alliances with little central direction of definition of their roles. Their motivation was largely commercial. Richard Frawley, the "Manager"\textsuperscript{325} of the then IntI AA states (interview: 23/2/99):

\begin{itemize}
  \item The South Australian Government has consistently provided funding for the organisation that has allowed it to continue operations, but restricted it geographically to remain in Adelaide.
  \item The Department of Communications, Information Technology and the Arts did not extend funding for the Cybersafety course in 1999, showing their limited attachment to the benefits of the project.
  \item Indeed, funding is the opening point she makes in her address to the Senators and forms a section in the organisation's formal submission to the Committee.
  \item Having to appear before the Senate Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies, Frawley and other members of the
\end{itemize}
"I wanted to make sure that we sold as much Internet associated hardware as possible in this country. Which meant we had to have an open and free market, and as long as we had an open and free market then life is good. It's being driven by normal, competitive and standard business models. It's only when the government comes in and tries to muddy the water that things could have potentially been sullied."

The Association, run in the spare time of the members (though with backing by their employers), lacked the political skills to push their points. Richard Frawley recounts that Bureaucrats didn't contact him to discuss the views of the IntIAA:

"They basically didn't bother, I mean, I was available, and Jeff was available, and Luke and other was available, as far as I can remember that, it was just purely only in the Inquiry."

The founders saw the organisation as useful, but only in response to any government overtures at Internet regulation that might effect the commercial interests involved in the group. Thus when the Senate Committee process had run its course, the Association was effectively suspended, not really recognising the peripheral nature of the Senate process to the policy development that was being undertaken at the Departmental and SCAG level. Thus the IntIAA never developed the longevity required to develop permanent resource-dependency relationships with the emerging policy network.

With the merger of IntIAA and the AIA that was to develop into the IIA, the Association became more professional in its dealings with the (largely) Canberra-based bureaucrats dealing with the policy area. Peter Coroneos, with a background in law and commerce, joined the organisation after working for the Australian Competition and Consumer Commission (IIA, 1997). Having worked as a bureaucrat in an Agency that had focused its attention on the interface between government regulators and the private sector, Coroneos brought to the IIA much needed skills for dealing with government in a productive and regular manner. Peter Coroneos summarised his relationship with the Federal Government in this way (interview: 13/4/99):

"On the whole it's very positive. In fact, for an organisation of our size we have very quickly got the ear of government, because I think they recognised that we are mainstream, but we're also cutting edge. We're mainstream in that we have a strong business focus, but we're cutting edge in that our members are actually pioneering growth ... That means we get invited to participate in all these different forums. We can go and organise a meeting with the Minister on content, we can do that because they trust us, because they know we're not going to go out and be irresponsible in the media and that they're going to get some meaningful input from us."

Coroneos's attitude in dealing with the Government on Internet content (and IT issues generally) can be seen as a willingness to abide by the rules of the game, however, this only partially explains how the Association has fostered resource dependencies with governmental units. Much of the impetus behind the formation of a peak industry association for ISPs stemmed from the policy community itself, looking for a credible organisation with which to negotiate policy and draw upon for information about the shape and nature of the industry. This aim was manifest in the way that Michael Lee, as Minister for Communication, developed his Direction for the ABA Investigation into the Content of Online Services (ABA, 1996:4; Michael Lee, interview: 23/6/99) explicitly limiting the Investigation to a model based on that used by Austel (for telecommunications) and the ABA (for Broadcasting). In meeting this requirement the ABA had to support the call for some form of national body representing industry to the (expected) regulator, either through a peak body, or via a committee constituted by the

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Association simply made up titles and job descriptions that had little to do with their actual roles in the organisation (which were not well defined).

326 Frawley worked for CISCO Systems.
ABA. In recognising this, the IIA positioned itself as the most likely candidate for the role of national industry association, with a willingness to bargain and trade off the freedom of widespread public dissent for access to government. In doing this, the IIA presented itself as the only industry group need be included in the policy making process, and precluded the formation by government of an industry peak council, where membership was not controlled by the IIA.\footnote{Indeed, under the Labor government this outcome may have been likely. While Lee constructed the Ministerial Direction to the ABA with the firm intention of getting the ISP industry to band together in some form, he was uncertain if the structure of the Internet Industry would develop to the extent where one group could claim to represent the whole industry (including the large number of very small ISPs who were emerging into the market place at the time). In developing their report, the ABA too saw this limitation, stating (106) "the on-line environment is fundamentally different in structure to existing information and entertainment industries. Hence clearly defined and centralised industry associations along the lines of those that represent traditional broadcasting and computing industries are less likely".}

**The Edge - The "Linkers"**

While the policy network can be seen quite simply in terms of the membership of institutional actors, Young Media Australia and the Internet Industry Association, a wide range of other groups can be seen to have had intermittent and informal connections into the network. Figure 7-2 places these organisations and individuals in a box marked the "Linkers": they were connected to the political process through the provision of information through formal hearings and investigations, and informal connections and personal interaction. While none of these groups individually qualify under Rhodes's definition for inclusion within the policy network proper, and are discussed in detail in the following sections on outsider groups, there is a number of specific and particular observations that need to be made about the role of these groups in informing and placing pressure on groups within the policy network itself. These points directly relate to the capacity for groups to gather and distribute information supporting their political and policy views, but is also integral to the way that these groups utilised the Internet technology to develop policy responses and inform policy makers within the network. What binds the groups together is the individual membership of many of their members in the "Link" email list (hence the name "linkers" describing members of the list). Established in 1993, Link developed over the years into the key mailing list for IT and Internet-related issues. While Internet content regulation was never the sole focus of the list, it fostered a great deal of debate and information exchange on the subject of government Internet regulation\footnote{As previously noted I have also been a member of Link for some years.} (Higgins, 1999), especially during the legislative debate of 1999 and in the pre- and post implementation stages of the legislation\footnote{The EFA developed a Internet censorship specific list "Stop", but this remained cross posted to Link and so the issue never really left the Link list.}.

Overall, the "Linkers" in question are a subset of the wide range and fluctuating numbers of industry organisations, user groups, and IT consultants / watchers who were involved in the various Parliamentary or Departmental / Agency investigations and consultations (Geiselhart, 1998). While many groups remained continually involved in the process, in that they were consistent contributors to inquires, only a handful achieved any formal recognition as important in the consultative process. Initially, the Internet censorship area attracted limited resourcing to the officers working within Departments and Agencies. When Michael Lee gave the ABA responsibility for investigating online services, he expected this process to be undertaken inside the existing budget of the Authority. While some resources were found in the ABA (mainly for staffing of the process), Kaaren Koomen who ran the Investigation for the ABA (interview: 19/2/99) observes:
"we were given no extra money to do this, so we had no budget [however] we did manage to do some travel, by in large we tried to do it on the 'net, by in large we invited people in to see us, encouraged people to write to us, teleconferences, all the rest."

This led to a wide dependence on industry for technical advice, and the Authority had "fifty or sixty meetings" with industry groups and experts like Robin Whittle of First Principles Consulting, who were willing to spend the time and effort assisting the Authority develop a greater understanding of the technology involved.

That Whittle assisted the ABA was not solely based on his personal philanthropy. Having witnessed the developments surrounding the issue of content regulation, the Linkers had identified an opportunity in the ABA investigation to educate government about the Internet. Thus, individuals on the list provided the funds to fly Whittle from Melbourne to Sydney to meet with the ABA officers, where he spent four hours tutoring Koomen and David Goldstein about the basics of Internet technology and the limitations of some of the proposals for censoring the technology (Whittle: 1996b–c). He noted (1996a) that "My relationship with the ABA people is very positive", a sentiment shared by Koomen, but one that was certainly strengthened by Whittle's decision to focus on technical explanation rather than present his personal libertarian views of the issue. The ABA, in meeting with industry and groups like the EFA, were receiving a clear understanding of the online communities' negative views on regulation, but really needed the technical knowledge to develop their case. Besides, Koomen, as a part Vice-President of the Council of Civil Liberties, understood and sympathised with the free speech argument, as did Goldstein. On returning from these meetings Whittle reported back to the Link list, keeping them appraised of developments. What this lead to was an inclusion of the ABA in Link, with David Goldstein finding it a useful source for information and advice:

"There are a couple who I can ask questions to and know that the conversations will be in confidence, that sort of stuff helped a lot over the period of the investigation... and it continues too."

While these forms of interaction developed into a wider incorporation of some of the ABA Investigation officers into the Link community, overall they were temporally specific and lacked longevity. Whittle's inclusion in the ABA Investigation did give him an insider status—and his and other industry advisers work in liaising with the ABA is evident in the final report of the Authority—however, with the conclusion of the Investigation these contacts were not continued with either the Department of Communications or the National Office of the Information Economy (NOIE). As Departments with more extensive budgets, the organisations could command greater resources to apply to the issue, and where the inclusion of people like Robin Whittle was seen as useful because of his expertise, the political considerations of including an outsider with strong links to the online community precluded this at the Department level. Thus, while NOIE officers did pay attention to the Link community (see below), formal incorporation of outsiders like Whittle was avoided in favour of the more politically palatable technical advice offered (on a commercial basis) from organisations like the Commonwealth Scientific and Industrial Research Organisation (CSIRO).
While the political realities of the debate over Internet censorship limited the way that policy makers could manage their consultations with industry and user groups, these organisations were aware of the environmental scanning bureaucrats were undertaking. Tom Worthington, then President of the Australian Computer Society (ACS) became aware that many of the bureaucrats and Advisers working in the policy area were "lurking" on email lists and using these forums to gauge the industry and IT professionals' views of developments and policy pronouncements. This strategy was not immediately apparent, however (interview: 10/2/99):

"Later on when we got the system worked out, we would simply post messages to electronic mailing lists and assume people in Ministers' Offices were reading them and occasionally some one would sidle up to me at a conference from the Minister's Office and say, 'Oh that was a good posting.' ... They were absorbing them and they were also passing back informal hints as to what they would like us to say, that they couldn't initiate publicly to say something. But they'd like us to submit it, so they could agree to it."

This constant flow of information and discussion provided policy makers with an excellent way to gauge the professional reaction to policy developments, especially from ISPs, members of the ACS and Electronic Frontiers Australia (EFA) executives, academics, and journalists. What impact this had on the public servants who, like Hugh Sherwin of NOIE, were drafting amendments to legislation while the Link debate was streaming into his work email account, is uncertain. However, the use of the technology in these political debates adds to the richness of the political background in which policy makers were engaged.

**The Outsiders I - The "Industry"**

While the IIA did emerge into the policy network as a group willing to trade resources and be bound by the rules of the game, the "Linkers" were part of a wide range of outsiders to the policy network. While many of these groups continued to lobby and attempt to influence the policy process, they were unable to develop the exchange relationships required to reach insider status. The reasons for this are as varied as the groups concerned: Lack of sufficient interest in the issue to dedicate the time and effort required to become an insider group; Incompatible appreciate systems within the group to the rules of the game of the policy network; Lack of capacity to remain engaged in the process, and logically; Lack of resources with which to exchange for entry into the network itself. These reasons are influenced by the developing nature of the policy network itself. Where, in 1996, the network was open for an industry group or groups to enter, the willingness of the IIA to become engaged in resource-dependencies with the Government and abide by the rules of the game meant that the scope for other groups to become insiders withered away. Thus, while groups like the EFA were far too extreme in their views ever to have developed insider status, "moderate" groups like the Australian Information Industry Association (AIIA), the ACS, or the Internet Society of Australia (ISOC-AU) became precluded only because the role of industry insider had become filled by Peter Coroneos and the IIA, with a claim to legitimacy and representing the interests of the Internet industry.

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335"Lurking" is the activity of subscribing to email lists without participating in the general discussion.
What Figure 7-3 shows is a network structure of formal and casual relations between industry groups and government. Unlike the two earlier figures, these connections are not resource-dependencies, but ongoing communication and interaction (sometimes joint membership) between organisations that were continually involved in the debate over Internet censorship. What we see is a highly complex environment of interaction. Peter Coroneos explains the way that industry associations related, especially in the tight community of Canberra:

“It’s quite frequent and regular. I mean in respect of the AIIA, AIMIA\(^{336}\), and some of the other ones. We’re all based in Canberra anyway. After a while you’re going to the same events, you’re speaking on the same platforms about issues and stuff like that. There are also issues that are of common interest to the different associations and we quiet often get together on issues for joint submissions, because we think there’s actually a lot of power in government having a view point to put it from an alliance of industry associations”

These events also provide the various associations with claims to political legitimacy. As Peter Upton of the AIIA observes (interview: 29/1/99):

“in terms of direct interface with the Government, that’s probably the smaller portion of it. So if you ask me to sustain our business case, we only do events because they give us the public face that gives us the strength to go back to the Government and say ‘Hey look we’re a big and powerful and important group of people, you should be listening to us.’”

\(^{336}\)The Australian Interactive Multimedia Industry Association. The IIA and AIMIA began the process of merging in 1999, an arrangement that would give AIMIA a Canberra-based lobby and provide the IIA with a state-based branch structure.
The AIIA, which is well connected to other policy networks closer to their core interests of hardware sales and electronic commerce is a good example of a group with the resources to dominate the policy network, but with a lack of willingness to do so. The AIIA, as an established, and well staffed and funded group, easily out matches the IIA in its size and expertise. In 1996-7, however, the organisation was less concerned with matters of content, as equipment and software manufactures and retailers tended not to be directly involved in content development. Peter Upton's involvement therefore, supported the work of the IIA and ACS, allowing the organisation to keep a hand in affairs, without committing itself to the effort of becoming a "player" in the truest sense.

The Eros Foundation too was a group only partially committed to the policy debate, because of lack of a tangible commercial interest in the issue by its members. While some Eros members developed a web presence, their restricted ability to fully exploit e-commerce, especially prior to 1998, limited the amount of money Eros members were making from Online services. For Fiona Patten, the President, their involvement in the issue was largely based on their anti-censorship ideological stance, stating (interview: 9/2/99):

"At a day to day level it's not something we spend a lot of time on. Sort of at a philosophical level it's almost intrinsic to what's occurring because the notion of censorship, of States saying 'You can sell that video, but you can't sell that video.' or 'You can sell that magazine, but not that one'."

Overall, while the organisation's lack of involvement in the issue can be seen as reflecting its marginal status in the political process under a conservative administration, the organisation can create avenues to use its financial resources. In the past, this has taken the form of proxy groups (either organisations with similar problems or through encouraging the establishment of new industry associations). As Fiona Patten states in regards to the compliance costs of film classification:

"So we've helped other groups form, like the Australian Independent Distributors Association, which is people like Electric Shadows and the ValHalla and those types of companies that will be very badly effected by, already are effected by the rises in classification fees."

That the Foundation was not interested in using these opportunities was based purely on an assessment of the relative importance of the area of online services to the Australian sex industry.

An association with more involvement in the issue was the Australian Computer Society which, while lacking a large direct commercial interest in the area, was interested in the developing policy because "as a professional society you have written into your objects that you're going to worry about the community and these sorts of things, that's part of the deal" (Tom Worthington, interview: 10/2/99). However, while the Society has a large base of members (being focused on the membership of IT professionals, rather than their host organisations), this transferred oddly in the context of the policy debate over Internet content. While groups like the AIIA and IIA have a keen understanding of commercial realities in the hardware, software, and network provision industries, the ACS is comprised of professionals who link these products to end user expectations. As such, the Society is comprised of individuals who were well placed (in terms of

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337 The Foundation was formed in 1992 in a merger of the Adult Video Industry Association and sex workers and brothel owners (O'Sullivan, 1997:24).
338 Especially after the Foundation ran up against a Contempt of Parliament charge on Patten's first appearance before the Senate.
339 However, the Society did debate whether it should be involved in the issue because it did not reflect the "hard" computing background of the organisation. The ACS was initially developed by programmers who worked on institutional mainframe systems, with the developing trend towards desktop work taking some time to filter through the organisation's culture. Worthington and others were keen advocates of Internet technology.
Australia's Online Censorship Regime

informational resources) to exchange this expertise with other members of the policy network. Indeed Dr Roger Clarke, an active ACS member, was instrumental in educating the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies about the operations, limitations and capacities of the Internet in 1995. Their capacity to understand and communicate the technology may, ironically, help explain the organisations absence from the policy network. As a professional society, the ACS was not only in the technical position to describe the limitations and flaws in many of the various policy proposals developed by the Government, but was almost honour bound to do so. As an enthusiastic advocate for Internet technology, Tom Worthington was unlikely to play by the one of the key rules of the game: retaining criticism to inside the policy network itself. This, combined with Worthington's personal enthusiasm about the future of the technology and personal friendship with Labor Senator Kate Lundy, may explain the position that the ACS had outside the policy network.

What figure 7-3 also shows is the large catchment area that some groups, like the ACS, maintained in communicating with other groups. The ACS retained personal connections to the user community through connections with organisations like the PC Users Group, and Tom Worthington was connected to ISOC-AU as a board member, the EFA through inclusion on their internal mailing lists, and the AIIA because of the Society's interest in professional development issues within firms that the Association represented. However, while groups like the EFA and ACS exchanged information, there was some distance between the two organisations because of their relative positions on the political spectrum. Phil Argy of the ACS recalls (interview: 19/2/99):

"His [Kimberley Heitman] presentations were good because I don't think they were put in an extreme form, but never the less a lot of spokesmen for the EFA were speaking in much more extreme forms ... and we in a sense tried to distance ourselves from that, which I think worked because we had more credibility."

Generally an approach was shared by other organisations. Peter Upton regarded the EFA with "ambivalence", stating that: "When they're on our side we're happy ... when they are making what we think are extreme views, we tend not to be there". Peter Coroneos too had some sympathies for the EFA view, but saw the two organisations as being cast into often conflictual roles in the policy debate. He saw that

"members are, primarily, the initial users of the Internet, the old guard, as it were, without being perjorative, the hackers, the hacker type people who always saw the Internet as the last bastion of the defence of citizen against the state. And I think that there's a lot of legitimacy in that ... but representing the industry as we do, we have to have a lot more measured response to issues. And so, more often than not, we won't be sharing a common position with the EFA."

As the IIA became increasingly involved in the policy debate, leading to their inclusion as the key industry insider administering parts of the Internet censorship regime, these

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340 This friendship is not particularly secret, with Worthington publishing an account of his a hot air balloon ride with the Senator in 1996 (Worthington, 1996). Additionally, the ACS awarded Lundy the "Most Computer Literate Politician" Award in the same year strengthening the link between the Society and the ALP.

341 A collection of computer enthusiasts. The group, based in the ACT also maintained connections with similar organisations in Sydney and Melbourne (Karl Auer, interview: 1/2/99). Auer was also and EFA member and Vice-President of ISOC-AU.

342 Also Michael Baker, a long serving EFA board member is a member both of the ACS and a founding member of ISOC-AU.
tensions were inevitably leading towards further alienation of the groups, and less than veiled hostility.  

This coolness of relations between the EFA and other participants in the political debate can be seen more broadly in the way the organisation dealt with government. Certainly those bureaucrats who consulted with the EFA had mixed feelings about their face-to-face encounters. Even those personally predisposed to the liberal ideals of the EFA found their manner in meetings sometimes overly aggressive, and lacking an understanding of the role of the bureaucrats in the policy development process: as important advisers, but not decision makers. This distance tended to place the organisation out of the loop. When, in early 1999 they heard rumours about the upcoming legislation the EFA's Danny Yee recalls (interview: 16/2/99) that:

"we did a ring around in the Government and no one seems to think that, well reliable sources seem to think that that wasn't the case, that there wasn't any chance of legislation being passed before the next few months"

However, the EFA tended to accept the position into which it was cast: on the edge of the libertarian debate. Kimberley Heitman observes that the organisation's outsider position was useful in the wider political environment (interview: 20/4/99):

"We're very much the ginger group that keeps other Internet groups honest. We're about the only Internet group that does not feel constrained by the necessities with having daily business dealings with government, and as a consequence we have the freedom to put opinions quiet strenuously to government that other Internet groups are concerned about from an Industry perspective. To get down to cases, groups such as ACS, AIIA, or IIA are much more conservative than us, not on the basis of a fundamental difference on policy but on the basis that they feel their industry members require them to come accommodations with government on the basis of good commercial relations."

Here Heitman focuses on the key distinction between the EFA and other groups in the policy debate: they had little interest in gaining insider status because the views of the organisation were never going to match with the expectations and policy direction of either a Labor or Liberal government. While maintaining this position matched the philosophical liberalism with which the organisation was founded, the EFA, as a purely representative organisation, had little choice but to maintain this position if it were to retain its membership. Irene Graham of the EFA observed that (interview: 29/12/98) membership subscription was dependent upon the level of political conflict with which the organisation was involved. Between campaigns membership would drop away because Internet users saw the EFA as taking care of issues of concern to them. This reflects the volunteer nature of the organisation, and the problems associated with mobilising members who could only receive intangible public goods (freedom from

343 This hostility took the view that the IIA's "cooperation" with the Government and the content of their Codes of Practice (EFA, 1999c).

344 Additionally, some of the bureaucrats working in the area were sceptical about claims of legitimacy by newly formed groups like the EFA. As Kaaren Koomen stated: "And then you had other groups, and this was typical of a lot of online groups, where you had, you know, maybe a thousand voices ... or I don't know how many members of the group who came together because they had a consistent interest in the particular topic as described in the [email] header' (laughs), but you tend to have a few people tend to dominate that group. And, its, when you don't have elections or you don't have, you know, sort of, more formal processes, it's not to say they weren't ideal, but when you don't have those it's hard to get a feel for what are the interests of the Australian Internet user, that some of the groups proportion to represent."
censorship) and personal rewards (inclusion, feelings of usefulness) from the activities of the organisation\footnote{Unlike the industry associations, the EFA did not run professional development or business seminars for its members. Indeed the organisation's resources were limited and face to face meetings of even the board were seldom undertaken, the organisation relying on teleconferencing and Internet Relay Chat sessions instead (Irene Graham, interview).}

What this complex pattern of interactions, joint membership, and shared office holding shows is a wide range of engaged groups—many of which had formidable political resources in their own right—that existed outside of the policy network. While some of these organisations would have been interested in gaining the status of insiders, a wide range of reasons prevented this occurring: from resource constraints to incompatible values and motivations. These groups, however, were consistently engaged in the debate, generating submissions for Senate Inquiries and governmental consultation processes that informed much of the bureaucratic understanding, especially in the developmental period of the policy debate (1994–7), about the capacities of Internet technology and the realities of any regulatory regime. Overall, these groups were largely opposed to content regulation, because of underlying beliefs about the importance of the free-flow of information (either as a lubricant for free speech, or commerce), the limited capacity for national governments to censor the Internet as a global medium, or the unintentional impacts that any regulatory regime may have on the capacity of the network, or it's future as a building block for a "wired" or information society\footnote{While terms like "the Information Society", "the Information Economy" and "the Knowledge Society" are used to described this general concept, it can be defined as a society, utilising electronic communications technology to distribute information to produce community structures, economic advantage and social well-being (Bangemann, et al., 1994).}. While these groups formed the bulk of the regular, engaged contributors to the policy debate, there were also other, non-technically based organisations that were interested in the issue, largely in opposition to the views presented by industry and the technologists. These groups focused on the content travelling along the Internet and it's social impact, and served to push the debate towards government regulation and increased intervention by the Federal government.

**The Outsiders II - The "Community Groups"**

While technology-related organisations and users tended to dominate discussion of the issue, a small number of (largely religious) groups concerned with media content were engaged in the political debate. What we can see of their involvement in the process is that none of these groups reached even the limited level of insider access of Young Media Australia, and they remained relegated to the status of outsiders with limited influence. Their activities, however, are useful in describing how these groups interacted with policy makers but failed to get their concerns placed on the public agenda in any meaningful form. By placing these groups within a network diagram showing interaction patterns (figure 7-4) we can see a lack of communication between these groups\footnote{Whereas, in Figure 7-4 the patterns of interaction are two way, among the community groups this was a largely one way process. Where communication cycled back to the groups, this was in the form of issue papers and requests for submissions.}. Also, where the industry retained links into Agencies and Departments (albeit with a distinct slant towards the Communications portfolio), these groups focused their attentions mainly on the work of the Senate Select Committees investigating online services and the ABA, rather than personal lobbying and representation to Department bureaucrats or Ministers and their Advisers. Overall, this limited involvement in the issue reflects their perceived importance of the issue, and their limited technical credibility when debating industry views.

![Policy Area Communication Network - Community Groups](image-url)
What distinguishes the community groups from many of the industry players is their lack of specific focus on Internet or IT-related issues. While many of the groups are concerned with the content of media as a core function of their activities, the limited scope of the Internet—in terms of penetration into society—reduced the relative importance of this issue in their overall political activities. Thus, while groups like the National Viewers' and Listeners' Association or Executive Council of Australian Jewry (ECAJ) were connected with the policy debate in terms of content (pornography and violence for the NVLA, and racial vilification / harassment / violence for the ECAJ), the Internet was only a small subset of the political debates with which they were involved, and occupied less of their time than traditional media like television and newspapers with their greater reach and perceived higher social influence. For Jeremy Jones of the ECAJ (interview: 22/2/99), his concerns about distribution of racist materials and the harassment individuals remained focused on existing media, especially where "reputable" media channels like newspapers, radio, and television presented anti-Semitic views. Jones was connected to other fora, like Parliamentary Committees on Migration and Human Rights, and used these contacts to present concerns to policy makers and bureaucrats. In the Internet censorship debate, noting a focus on pornography rather than vilification, he took a more pragmatic approach: submitting to inquiries and investigations to present his concerns, but focusing on the use of legal sanctions provided by the Human Rights and Equal Opportunity Commission against prominent Australian holocaust revisionists. A strategy he saw as more rewarding than engaging in the exhaustive, long-term process of attempting to develop new legislation for regulating Internet content.

Similarly, while highly concerned about the use of the Internet to distribute pornographic content, a lack of complete engagement with the Internet censorship debate motivated the response of the Religious Alliance Against Pornography (RAAP). While Alan Wakeley, RAAP's Australian Representative, wrote articles for the Sydney Morning Herald and The Age on the topic of Internet content, and appeared on television to raise the public profile of the issue, his capacity to form alliances within the religious community limited his endeavours in this area. He recalls attempting to get support for the organisation (interview: 23/2/99):

"we brought from the United States a lady by the name of the Reverend [Dr] Eileen Lindner, she's the Associate General Secretary of the US Council of Churches ... and we brought her here to meet with religious leaders across the country to try to develop their interest in the subject and to establish a local version of the Religious Alliance Against Pornography. But to our great surprise some of the leaders, some of the heads of churches, decided that they did not want to
proceed because, quote unquote, they did not want to be perceived to be wowers."

In meeting these rebuffs from other church organisations Wakeley developed a pessimistic view of the potential to move the debate forward. He saw the anti-pornography movement as being marginalised by mainstream media who down-played the importance of the issue in the Australian social context. To this end these views were also supported by research conducted by the Church of the Latter-Day Saints\textsuperscript{348}, Wakeley states:

"We did some research ... into issues of concern in Australia, and surprisingly pornography was down the bottom of the list ... So, as I say in Australia, probably reflecting this public view that pornography is not a mainstream issue, the Churches decided they would not be involved in establishing a RAAP. Yes they'd give support to the concept and we'd work together from time to time on the issue when particular concerns came up, but in terms of establishing a formal organisation ... they decided not to proceed down that track."

The RAAP, however, was one of the few religious organisations involved in the debate to form contacts with members of the industry community, having dialogues with both the ACS (via Tom Worthington) and PC Users Group (via Karl Auer)\textsuperscript{349}. These contacts were not sustained, however, because of the lack of time Alan Wakeley, as the sole Australian member of the RAAP, could put into the unsupported issue\textsuperscript{350} at the expense of this day-to-day responsibilities to the Church and the wider concerns of the group about other media forms involving pornography.

Representation and pressure on this issue from community groups was not confined to the level of single issue groups. Groups like the Presbyterian Women's Association of New South Wales (PWA) were involved in the debate, through their Social Issues Committee. For the Committee, their concern matched those held by the RAAP—partly a concern about the moral standing of the community, but specifically focused on the role of all media forms in this process or moral decline. Unlike the ECAJ or RAAP (through the Church of Latter Day Saints) the Social Issues Committee were smaller and had less of a professional, pragmatic approach to dealing with government. Where the RAAP and ECAJ could utilise research (both conducted specifically for their organisations within Australia, or drawn from other jurisdictions\textsuperscript{351} but related to media issues) the PWA was largely dependent upon the issue papers and requests for discussion produced by groups like the ABA. As Marian Smith, the convenor of the Committee (interview: 22/2/99) notes, they found these background papers very useful in alerting them to emerging issues and increasing their understanding of the policy area and technologies involved. In sending these papers out, the ABA was meeting its requirement to consult broadly and gather the views of a wide range of organisations within the community. As Kaaren Koomen states:

"If you're representing a governmental agency or body ... and you're required to consult with the community as we are, you have to take on board and listen, and be willing to listen to a broad range of

\textsuperscript{348}Wakeley is the Director of Public Affairs for the Church.

\textsuperscript{349}The three met when sitting on a panel for ABC Radio 2CN on 18 April 1995.

\textsuperscript{350}The two other religious organisations that were interested in the issue, and with whom Wakeley could have formed alliances, were incompatible with the RAAP concept. Wakeley was concerned with forming formal connections for the RAAP between churches, rather than with subsections of other organisations (the Presbyterian Women's Association's interest was at the committee level) and the Executive Council of Australian Jewry, while concerned at the Executive level, was not strictly particularly interested in the issue of pornography.

\textsuperscript{351}Such as the United States. The RAAP developed from the US organisation, and Wakeley's Church, based in Salt Lake City, retains strong organisational connections to the US.
representatives of the community, or members of the community, if they're representative or not. And so, my door was always open. People came in and they had genuine concerns."

However, at the organisational, rather than personal level, the perceived value of these submissions to inquiries is questionable. Certainly Smith saw the consultation process as decidedly one way, with PWA submissions disappearing into Senate and Bureaucratic processes without response. Additionally, while groups like the ABA display their public duty requirements for consultation, the seriousness with which submissions were taken by groups outside of the industry specialists is debateable. Image 7-1 (below) shows an extract of the PWA submission to the ABA Investigation into Online Services, neatly annotated with the words "These people have obviously never had anything to do with online services!" next to the association's key recommendation.

Image 7-1: Extract of Annotated PWA Submission

13. The complaints body should be called a Control Board or other appropriate name. The "complaints" label for the independent body gives the impression that action for non-compliance with regulations is merely because someone has been offended and taken the trouble to complain. Our past experience of similar bodies shows this a fruitless exercise. A system of monitoring should be undertaken by any Controlling body so that those who abuse the freedom to transmit are very likely to be apprehended and dealt with by law. Private people should not have to complain before any action is taken by the control body. Penalties should be high and seen to be enforced.

14. Private lines would not be monitored, but should be required to conform to privacy, racial and obscenity rules, etc, and where offences are reported, prosecution for obscene or offensive material should still result. Individual private line offenders should attract proportionate fines and/or service penalties.

Source: PWA Social Issues Committee, 1995:2 (Original document provided by the Australian Broadcasting Authority).

Thus, scepticism about the technical value of some of the submissions made by community groups limited their impact within the policy network. However, it is also clear that among those groups calling for tighter regulation or more rigorous application of legal sanctions to Internet content, pragmatic assessments of the issue's importance (overall and to the organisation) limited the time and resources applied to the political debate. Where an informal alliance could have been developed between these groups to exchange information and maximise their coverage of the area (media, political lobbying, grassroots support) the different appreciative systems of the groups limited this potential. This was caused by different views about importance of elements of the content problem (pornography versus racial vilification) and the perception of the willingness of other organisations to act co-operatively (RAAP and the PWA Social Issues Committee). Thus, these community groups remained very much in the background of the debate, occasionally reiterating their concerns through Bureaucratic consultations and in the process of Senate Hearings. Therefore it is clear that, while the industry outsiders were a key source of ongoing objection to increased Internet content regulation, the community groups’ involvement in the debate was limited. Certainly,

352 While many of the submissions had been marked with under-lined passages and high-lighting of key points, very few annotations were added overall.
353 Marian Smith does use electronic mail.
354 The author of this notation is unknown.
none of these groups saw their involvement as sufficiently driving along the pro-regulation side of the issue to any great extent.

**A Typological Identification**

In presenting this overview of the Internet censorship policy network and surrounding outsider groups, we are presented—not simply with a description of the policy makers and the character of their resource-dependencies—but with the information required to characterise networks within the typology utilised by Rhodes. In Chapter Three the concept of typologies was presented, based upon the axes of membership, independence, and resources to explain the operations of the policy network, and therefore allow classification. In examining the policy network based on Rhodes's Model we see a highly stable and largely static policy network, with vertical (federal-state) interdependencies that support a complex implementation system where Federal Agencies and State Governments need to work together to implement successfully censorship policies. This is because of the work of other policy subsystems (traditional censorship) and historically-derived constitutional constraints on the capacities of the various levels of government to deal with emerging technologies. Thus the policy network could be classified as a *policy community*.

This classification, however, does not adhere perfectly to the "pure" form of policy community with which Rhodes constitutes his typology. The variations are: First, the network was open to public and Parliamentary scrutiny and input because of the emphasis on consultation during its early life (until circa 1998–9), as a new policy area with which government had little experience. Thus while the network was quite scrupulous in keeping outsider groups out, there was inevitably a policy impact from the periphery upon the core, especially while government grappled with the complexities of the policy area. Second, because of the constitutional separation between line agencies and central departments, the policy community was less integrated than it could have been. Some units were distant from the core of the community, and informal communications served to facilitate communication between departments and agencies where direct formal communications were absent. Because of this it is possible to see that the relationship between the halves of the community that was centred around the Federal Attorney-Generals and that around the Ministers for Communication were slightly de-coupled. Each side of the community tended to have a different set of power-dependencies, SCAG and YMA for the Attorney-General and the IIA and industry groups for the Minister for Communications. This resulted in some tensions that shaped change within the community which emerged during the various policy debates undertaken by the network during the 1990s.

**The "Game"**

The description of the policy community for Internet content that has been presented shows the disposition of policy makers surrounding the online content issue. As the core of Rhodes's thesis on governance, a description of the network is important in determining the environment in which political strategies were deployed and resources used to influence the development of the policy process (and the shape of the network). Networks form the centre of Rhodes's view of the post-parliamentary state, therefore the value of the network hypothesis is that it allows the examination of policy making within the network to test, not only of the utility of the concepts employed, but as a measure of the value of the governance thesis and the limited capacity of the "hollowed-out state" to steer the direction of these largely autonomous, self-organising networks. To this end it is possible (as Rhodes presents, 1997b:42) to examine the patterns of interaction and

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355 Noting here that Rhodes (1990:305) sees the designations within the typology as parts of a continuum between the policy community on one end and the issue network on the other. Hence, as both are ideal types at the end of the continuum, it is difficult for real examples to exactly match all their characteristics.
policy development as a "game", where the members of the policy community manoeuvre for advantage, attempting to deploy their resources to best advantage without becoming overly dependent upon others in the network.

In examining the game, this section closely follows the division used in Chapter Six: the focus on four key policy making points: the establishment and activities of the ABA Investigation, the NSW Draft Internet Content Legislation, the 1997 Principles for a Regulatory Framework for On-Line Services in the Broadcasting Services Act 1992, and the introduction of the Broadcasting Services Amendment (Online Services) Act 1999. Each section shows the relative deployment of members of the policy network and their actions in leading, or responding to, actions by members of the network in the development of policy. What this examination shows is that, while early tendencies for the policy network to be open to external influence was useful in shaping developments within the network (both in terms of moving the policy direction from a legal / enforcement paradigm towards the self- or co-regulatory model), lessons from the political activities of groups in 1996 led to increased closure of the network and an emphasis on discrete negotiation between governmental units and the IIA. Through this process the underlying tension between the Department of Communication and that of the Attorney-General’s Department were resolved, with Communications coming to dominate responsibility for the major elements of policy development and implementation. Overall, however, while developments within the network towards the end of the case study show a strengthening of the network as a tightly ordered and externally-independent policy community, the problems highlighted in Chapter Six—failure to fully explain the political conflict surrounding the introduction of the 1999 legislation—lead towards a critique of the approach based on the limitations of governance in the Australian context presented in Chapter Eight.

In the Transition - From BBS to Internet
It is difficult to discuss the development of policy responses to the issue of computer network content regulation without looking at a number of key inter-related policy responses that stemmed out of various parts of the emerging policy network. In the first half of the 1990s, the Federal Government established an interest in computer content regulation through the development of a censorship regime for computer games. In considering this regime for areas of regulatory avoidance, the Government encountered problems with the regulation of games at the point of sale through classification and restriction of distribution. In essence, the free duplication and distribution of computer games was not considered a political problem because of the issues of copyright that where concerned, but how BBS operators of the time were managing to distribute restricted materials and evade the censorship system of Australia. This was occurring at both the physical level (through importing illegal materials via posted disks or international downloads) and at the enforcement level (as the capacity and interest of police to investigate content on BBSs outside of the context of cracking crimes had been largely precluded by the strict intrusion-enforcement approach of the Gibbs inquiry). That the Gibbs process is marked with a juncture between the late 1980s and the early 1990s shows the limitations of the arms length legal review in dealing with developing technology issues: where uses for the technology were changing, the process was very temporally specific and inevitably going to be made obsolete by technological and social developments. Therefore, by 1993, when government concerns about the communications technology resurfaced (albeit from a different area of the policy spectrum), no skilled bureaucrats were able to apply themselves to the problem. A fact that delays meaningful debate of the issues until circa 1996.
Thus, when the BBS Taskforce was constituted in 1993–4 to examine the issue of BBS content, the process was constrained by a lack of history in dealing with the issue of computer networks leading to limited expertise. As Laurel Johnson, who headed the Taskforce and was to lead the Attorney-General's Department on Internet censorship, recalls (interview: 2/3/99):

"When this was published and there was a Senate committee meeting and after it and it was a big one, they had ... all the online people from the industry there ripping us into tiny little shreds, because ... at the time this actually came out, Bulletin Boards were pretty passé and the Internet was the [way of the future]."  

Thus, while the Taskforce brought together a wide range of participants (Attorney-General's, the Department of Communications, the Office of Film and Literature Classification, Telstra, the Customs Service, and the Federal Police), the report was being developed at the very time that the technology they were writing about was becoming commercially and technically obsolete. The construction of the approach was such that BBS users and members of the developing Internet industry lacked confidence in the technical basis of the final report (Parliament of Australia, 1995a:173–5), and were willing to take what was seen as government interference to task before the Senate. This view was based on a number of accurate criticisms of the report, and the definitional basis of the reports use of the term "Bulletin Board System", which was so broadly defined as to include any electronic computer network (BBS Taskforce, 1995:8). However, the general thrust of the report, pushing for a self-regulatory system with an "industry" / community advisory board and complaints-driven takedown system may have satisfied the BBS community, had the policy had the chance to develop.

While the introduction of the Internet and its subsequent rapid uptake effectively sidelined BBSs and the Taskforce's report, the division of labour between the Attorney-General's Department and the Department of Communications and the Arts used in the Taskforce was entrenched under the Labor Government. But as interest in Internet technology developed (at the State level and from the Senate Select Committee), the two areas of the policy network perused two parallel, but separate areas of policy development: The Federal Attorney-General through the SCAG process to produce a national uniform standard piece of legislation, and the Minister for Communications and the Arts through an information seeking exercise run at the Agency level. These processes were not resolved by the time the Labor Party left office, leaving a demarcation dispute between the two areas that had been perusing their policy developments. As this dispute was instrumental in developing the Communications

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356 First by a decision of the SCAG censorship ministers and then formally by Michael Lavarch in 1994.

357 Johnson was similarly to have difficulty getting technical advice on the issue of Internet censorship. As the Departmental commitment to the issue was slight (in terms of resources), she was largely dependent upon IT support within her own department to give her expert advice. She recalls that communication with her IT support was a case of:

"the IT people can't communicate with us and we can't communicate with them (laughs), we don't speak the same language. I tried desperately with our IT people to get them to come to terms with the policy issues in this, but they don't think that way ... the only IT resources we had were technical, they just didn't understand the policy process and, even when you'd ask them 'Is this possible? You know, the industry's saying this can not be done.,' you'd ask them 'Is this possible?' you wouldn't understand the answer, you wouldn't understand weather it was yes or no, because it was probably somewhere in between. It was fairly frustrating."

358 Thus concerning the emerging Internet industry who, while having contacts and roots in the world of BBS's, saw their technology as very different from the more primitive one-to-few networks of the BBSs.
portfolio as the dominant coalition of actors in the network, this period can be seen as formative in the way that the policy response was finally developed. Thus, while the next two sections discuss these (largely) separate policy development processes, it is important to note that these occurred simultaneously.

**The ABA Investigation**

What the "industry" response to the BBS Taskforce report showed the Minister for Communications and the Arts, Michael Lee, was that the policy area lacked consensus. While censorship issues where outside of his direct responsibility, he did have a limited number of concerns about media content\(^{359}\). While hindsight shows that the overall area of computer networks lack definitive description of the nature of the policy area\(^{360}\), the potential scope of government intervention, and the likely effectiveness of various technological and legal controls, this was less evident at the time. For Debra Richards, the motivation for the ABA investigation was aimed at meeting concerns of community groups and the Senate by being seen to be acting decisively on the issue, and avoiding utilising the same interdepartmental working group structure as the BBS Taskforce, which had produced conflict over its report and recommendations. She states that:

> "I think it's fair to say the community groups like Young Media Australia ... pushed the agenda in terms of what sort of protections are there going to be for children. They have backing from the Senate Committee on most of those issues, the Senate Committee continued to have a watching brief on what was happening in terms of regulation of online services. And it just got to a point where maybe we really need to think about where it's all going and what it's going to mean for Australia and, you know, what are the issues around it all and how are we going to deal with it, do we want to deal with it, that sort of thing. So it came to a point where, the joint process between departments was not producing anything. I suppose, I wouldn't want to say that you didn't have confidence in them, but, ... it just seemed an opportune time to actually send it to someone who dealt with regulation, who had had a lot of experience on the content side, and had a role in conducting inquiries at the request of the Minister. And the ABA, it's safe to say, was developing their own policy role too. So they were very keen in getting that sort of inquiry."

Richards who was in an excellent position to understand the capabilities and appreciate the ambitions of the ABA to develop the policy role and branch into new areas of regulation, had been head-hunted to Lee's staff from the Authority by Lee's previous broadcasting Adviser.

While the ABA Investigation was specifically constrained by the direction handed down by Lee's Office, the ABA Officers in charge of the Investigation saw themselves as having a fair degree of latitude in the way that the Investigation was conducted and their emphasis on different parts of the policy problem. Koomen saw the Ministerial direction as problematic: focusing on the concept of "community standards" that she saw as "impossible to define". In developing their response, working closely with industry groups and experts like Robin Whittle, the Investigation was headed towards producing a far more technically-solid report that would find favour with industry. As Koomen observes of the findings:

> "I think most people thought we would have a much more onerous regime recommended. But we thought that 'No, we wanted to have,"

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\(^{359}\)With mainstream media issues occupying more of his attention, such as the portrayal of violence on news telecasts (Lee, interview).

\(^{360}\)This is supported by the statistical analysis of participant evaluations of the policy subsystem presented in Chapter Six
encourage self-regulation, and (A) it was early time for industry, (B) to encourage responsibility for ISPs rather than government, sort of, imposed ... We didn't want to create an environment that was hostile to ISPs, force them to go offshore, or crush ... a potentially vibrant new industry. All of those sorts of things, so we took a very light-touch regulatory approach in recommending codes of practice as being the model."

Thus the ABA report tended to emphasise thinking within the industry at the time it was written. At this time developments were progressing in the establishment of metatag standards for classification data that could be placed in webpages by creators and used by filtering products at the end-users level. By developing the interrelated browser software to interpret this information, parents could self-select a range of classification limits for children using the Internet rather than take the pre-determined settings provided by the products offered by filtering software packages. This concept (the Platform for Internet Content Selection, PICS) was well under development in 1995 and 1996, under the auspices of the World Wide Web Consortium. However, while the technical specifications did emerge into a commercially useable form (Stutz, 1997), its reliance on having pages rated by community groups and private sector organisations, and having users adopt the technology, limited its distribution. Thus, while in 1997 PICS seemed like a viable, non-governmental co-operative approach to content classification and self-censorship, the technology failed to develop into a well-accepted market standard, and eventually disappeared from public view and industry consciousness.

These developments, however, did not limit the acceptance of the ABA report by industry, which saw that the report as the first authoritative document produced from the Public Service on the issue of Internet content. While some organisations were cautious of the ABA's involvement in the process (Peter Upton was concerned because the ABA also dealt with codes that specified an Australian quota for online content, a development he did not want to see brought into the Internet environment), the ABA's receptiveness to industry participation in the process brought them onside. Philip Argy stated that "we at one stage were working very heavily with them, educating them, I mean Kaaren Koomen did a fantastic job in getting on top of the issues". Thus, the ABA Investigation process placed the Authority in some standing with industry and the online community as an organisation that was receptive to the views of the users and professionals, and capable of presenting a report that showed the limitations of strong intervention by governments on online content.

The production of the report itself served to increase the political resources open to the ABA in the policy subsystem. Its release helped cement the position of the ABA in the minds of the new Coalition Government as the anointed administering agency of any future co-regulatory scheme. The report strengthened support by industry and users for the ABA. This was due to its content and status in the online community, with even the EFA coming out with support of the document, stating (EFA, 1996a):

*Electronic Frontiers Australia Inc. has welcomed the Australian Broadcasting Authority report on Internet regulation. "In strongly endorsing PICS, the Platform for Internet Content Selection, and recommending a community education campaign, the ABA has demonstrated its grasp of the complex technical and moral issues involved", said EFA spokesperson Irene Graham today.*

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361 Information contained within the document used to describe its content.
362 And was adopted into browser software like Netscape and Internet Explorer.
363 For broadcasting, where industry codes necessitate Australian content, news services, etc.
Thus, while the ABA's involvement in the policy debate was to return to a limited interest as the report and its impact was considered by the Minister and Department, the political impact of the report was to provide the ABA with the influence to become involved in another area of policy development that was occurring within the Standing Committee of Attorneys-General: the development of offence provisions for Internet content by the New South Wales State Government.

The NSW Draft Legislation

Of all the policy developments within the issue of Internet censorship in Australia, the development of the New South Wales draft offence provisions for Internet content in 1996 were the most complex. While the draft legislation itself was simplistic, the political debate it provoked entailed a complex array of groups and individuals using their resources for political advantage. In its draft form the legislation showed little understanding of the technology behind the Internet, or sympathy for the limited capacity of the ISP to monitor and control data passing through their systems.

Section 7(1) is an excellent case in point, stating that "An on-line service provided must not permit objectionable material to be available for access or retrieval by users of the service.", implying capacity for the ISP to control access to Internet content provided by their systems. These types of provisions, combined with provocatively empty boxes for the inclusion of penalty units could not inspire confidence among the ISP and user community, and therefore, combined with the secretive way the NSW Government was developing the legislation, provoked the public response and protests that it received. In the final analysis the NSW legislation debate had many of the characteristics of the development of the Broadcasting Services Amendment (Online Services) Act, albeit with a very different conclusion.

The NSW Legislation was born out of the SCAG processes in 1995. Prior to the release of the ABA report, the co-operative working arrangements of the Departments of Communications and Attorney-General's had produced some background information and developed a set of draft provisions for content regulation (Connolly, 1996b:19). Where censorship issues were concerned, the States did play a key role, not simply in matching Federal legislation with legislation and enforcement, but also as a recipient of public pressure for action on content issues of the day. That the New South Wales Government became interested in the issue is related to these pressures, the ability for the jurisdiction to be seen as tough on pornography in a pro-active manner, and a lack of interest in the topic by then Attorney-General Michael Lavarch. Lavarch notes his assessment of the issue at the time:

"It wasn't so much as seen as super important as it was something you could attempt to make some sort of response to and you could do it in such a way; to be crass about it, there were very few, sort of, down sides to it. Most political issues you offend a segment of the community. There are very few people who articulate a view that pornography should be freely and openly available. Obviously there's a civil libertarian stream and then there's the computer industry ... But that's not a very powerful lobby, well it might be getting more powerful now, but three or four, five years ago it was not at all articulate. Where as fundamentalist Christians, left wing Feminists and what have you were a bit more effective in terms of getting the censorship regime."

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364 The legislation was never formally released, and it is uncertain when the draft circulated on the Usenet was developed and if it was the final development of the legislation before it was discontinued by the NSW Attorney-General.

365 Others include 8(1) which assumes the "transmitter of material" is aware of the age of "recipients", obviously based on a broadcasting model, without reference to the static nature of webpages and their free access.
Lavarch was happy to leave the running on the issue to Jeff Shaw, the NSW Attorney-General. If some nationally-acceptable legislation emerged from the process, then Lavarch would have been happy to look at it.

Shaw, in turn was happy to make the running on an issue that he could get some political mileage from. His initial press release on the subject shows he saw the issue as one that he could push hard on, stating (Shaw, 1996b) that his approach was tougher than that undertaken by Western Australia, with substantial financial penalties and prison terms attached. In essence, however, the issue within SCAG was never well discussed with Gary Humphries of the Australian Capital Territory seeing the issue as a "second level" issue: attracting some discussion, but without real debate and conflict within SCAG over its content or who should pursue the matter (interview: 2/3/99). He saw the process as somewhat artificial, but conformed to the rules of the game that SCAG members worked within:

"the general mechanism was something like someone proposing that work be done at the national level, that was, with a number of jurisdictions cooperating, on legislation like that of jurisdiction that was hosting the item on the agenda ... and there's a lot of political posturing in that because the State concerned can say, go back and say 'You know, we State X have now initiated national reform in this area.', and it looks like you're showing leadership, we do it sometimes too so I can't complain about it."

Watchers of the process also noted that SCAG resolutions on minor issues were often constructed for parochial political ends. Debra Richards notes that:

"I would go to those meetings and they would have their press releases drafted before we even tackled the issues. So it was very much seen as a political and public issue."

Thus, while Shaw received support for NSW developing a draft national code, and could use this to show leadership on the Internet issue, support for his approach was contingent on a recognition of the political realities underpinning the offer.

In the wake the debates surrounding the release of the BBS Taskforce and Senate hearings on the issue of Internet content, Shaw's announcement of a "Clamp Down" activated the formative EFA into the political debate. Peter Merel, one of the organisers of the EFA street march is a good example, having been involved in the Department of Communications and the Arts consultation process he was interested in the direction government was taking on the issue when news of the NSW legislation reached him. Through contacts on the Usenet he and Danny Yee put together plans for the protest, issued media releases and merged these activities with the EFA366. What assisted the march organisers in developing a strong public response to the legislation was the limited amount of information available about what was actually being proposed. Peter Merel recalls that (interview: 16/2/99–17/2/99):

"All kinds of disinformation were coming out of that office; the draft legislation didn't exactly give the lie to it, but it did pin Shaw down to either defending or dropping a concrete position."

When Merel and Yee managed to meet with the NSW Officers drafting the legislation their view of the approach didn't improve. As Danny Yee recalls:

".. sometime before the march, we had a meeting with them, Pete and I went a talk with them, but the problem was they didn't just understand. Like they had no, they had web access, if they went to the Parliamentary Library, sort of thing, they just didn't have a clue how the 'net worked, they hadn't talked to anyone who did have a clue how the 'net worked"

366 It was through this protest that Yee was to join the EFA.
Respect for capacity and understanding of technology (having "a clue") is important in the online community, and the level of technical understanding of the NSW Government did not impress groups like the EFA. As the date of the march loomed, Jeff Shaw went on the media offensive releasing to the media a statement entitled "Paedophilia Should Not Be Encouraged by the Internet" (Shaw, 1996a) arguing that the EFA misunderstood the approach taken by the NSW Government, calling on the group to "assist the State and Federal Governments formulate workable proposals", and reiterating the strength of the SCAG commitment to the New South Wales approach. Regardless (or perhaps because of the tone of the release) the march was not called off.

Against the background of these very public reactions to the legislative developments, informal relationships within the policy network pitted Federal Agencies against the would be State-based legislators. Kaaren Koomen notes that the ABA Officers undertaking the investigation retained "very informal" contacts with the actions being taken by the NSW Parliamentary drafters in developing the NSW Internet content criminal provisions. She stated:

"We were in the loop and we expressed some concerns about the New South Wales provisions. We were very, very happy at the end of the day when the Attorney-General of New South Wales decided to suspend ... those model provisions as a result of this report."

Thus, while members of the Federal Attorney-General's Department were working with the NSW legislators to develop the criminal codes, other parts of the policy network—distanced from their Federal colleagues by a number of resource-dependencies—were quietly working against the development of the legislation. Partly, this was based on the very different paradigms that Communications and Attorney-General's were following, but also as a result of the information that the ABA was developing through it's consultation process. The Labor Government never had resolved the differences between the two portfolios on the issue. Because of the joint decisions by the Attorney-General to support the SCAG endeavours and the Minister for Communications was instigating the ABA Investigation, the Government remained at cross purposes. Indeed, under Labor, tension between the two portfolios was clear. Michael Lavarch notes:

"There was always this tension within Government about who anyway as to who should be running with this and it was never a particularly common view. Communications never had any particular desire for AG's to have anything particularly to do with it. So that would reflect more that internal power struggle, you know, it was something that should be properly run out of Communications ... If it was my sort of baby and I thought it was all important, and this was the department to administer and run with it I would have stamped my feet, but it wasn't." 369

Thus SCAG, as a intergovernmental forum with limited secretariat support, lacked the informational resource linkages which placed the ABA in the position of being able to claim authority in the field and provide (in the final ABA report) a detailed set of counter proposal to that being developed in New South Wales.

367 Shaw's initial press release on the subject stated the State would press ahead with the legislation, even if its SCAG partners failed to support it.
368 Connolly (1996b:19) sees this press release as "the low point of the entire debate".
369 Indeed, while Communications issues were a key interest of the Prime Minister, who was anxious to see the area develop and the Department's performance improve, the seniority of Lavarch over Lee probably meant that Attorney-General's could have claimed the area in Cabinet. However, with Lavarch's lack of interest, and the looming election, these issues were set aside and therefore the Coalition inherited the policy area in the midst of a conflict between Communications and Attorney-General's.
Australia's Online Censorship Regime

These intergovernmental communications, however, cannot be seen as the key determinant in overriding the NSW legislation. As authority for developing the model legislation as handed down to the NSW Government via SCAG, and the Commonwealth Attorney-General's Department had been given directions to act by their Minister, overturning this policy approach could only be taken at the SCAG level. When criticisms of the draft provisions surfaced through the work of the EFA in co-ordinating protests, members of the "Linker" group became active, using the momentum provided by the EFA to contact SCAG members. This approach was very effective spreading information between observers and generating action, as Tom Worthington recalls:

"the New South Wales Attorney-General's Office had this legislation written, they then didn't want to tell anyone about it, and actually, I actually rang them up and asked for a copy and they said it didn't exist ... I got this message from EFA to say 'Hey look, we're aware of this legislation, ring them up and ask for a copy.' So I got this mail message, so I picked up the phone and I rang them, and they just said, they denied it. And I expressed some level of scepticism, so I got straight back on the email, sent out a message saying 'They denied it.', and that really annoyed me, because that was straight political nonsense and what annoyed me too was that they really didn't understand what they had taken on. So what happened was, people would find out information, ring them up and ask, and then report online to everyone else what was happening. People in the Attorney-General's Office of New South Wales, didn't understand this was happening and completely got out-manoeuvred by the whole thing."

This process lead to discussions within the ACT community of users and IT professionals, producing a meeting between Karl Auer of the PC Users Groups (ACT) and Gary Humphries, the Attorney-General of the ACT. Worthington notes:

"He reported afterwards, it sounds like he got along very well and essentially got their full support and quite effective support ... we suddenly had this ally to put the case in this forum."

This was a meeting which placed pressure back at the SCAG level, rather than attempting to force the issue with Shaw, digging his heals in against emerging opposition.

Humphries found these visits informative, not being an Internet user until late in 1998. Additionally, the street protests organised by the EFA served to show him the potential political problems of the legislative approach:

"I think [the 1996 March on the NSW Parliament] was a warning that it was a first run issue and had we tried to push ahead with some form of regulation, it would have ended up being like that, you would have resulted in a strong reaction in local communities. How much I don't know, I mean, I suppose in theory it would have been greater in the ACT than anywhere else because we have a greater proportion of the population online than anywhere else ... I was certainly aware of the more sophisticated nature of the electorate in the ACT on this sort of debate."

Auer had targeted Humphries well for two reasons. ACT Ministers, in a small jurisdiction with a place at the SCAG table with the large states, are open to representations by individuals. Humphries didn't utilise the type of mainstream media

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370 Though weather this strategy was well designed, or just accidentally fortunate because of Auer's residence in Canberra is uncertain. Auer notes (interview: 1/2/99) that he had very little political experience prior to this debate, mainly engaged in some university politics when enrolled as a student at the Australian National University.
scanning\textsuperscript{371} to gauge political feeling that his peers in the States would look to, and, for him, twenty telephone calls on any issue branded it as "hot". Thus, personal representations where very effective in bringing his attention to the issue. Also, where other jurisdictions might get some form of political advantage in token policy responses on moral issues, the ACT's demographic base (educated, younger, professionals) and experience with the Sex Industry, gave it very different philosophical approach to the issue of censorship than either the States or the Commonwealth.

On top of this pressure, there was a perceived lack of interest by the new Howard Government in pushing the issue along in the face of mounting pressure. Humphries again:

\begin{quote}
"I didn't detect any great leadership on the part of the Commonwealth. The Commonwealth was probably at the fairly early stage of the debate included to come the way of the ACT and argue that regulation of the Internet was a practical impossibility. I have to say not because they shared our philosophical views of the matter or our views about it being practically impossible, but because any such legislation they probably feared would end up costing the Commonwealth and they were anxious, at that phase, to avoid anything that would impose extra cost on the Commonwealth."
\end{quote}

With the backlash emerging soon after the transition from the Labor to Coalition Governments, time for reflection on issues was required. Differences between the views of the ABA (and Communications Department) and the Attorney-General's Department on the issue came into focus over the NSW legislation debate. With the ABA report advocating a non-criminal law response to the issue of content, this approach seemed a better response to the issue than attempting to ram through legislation. The SCAG meeting of July placed the ABA report ahead of the NSW legislation in the order of discussion, and the meeting resolved to "defer" the legislation's development, relegating it to the bottom draw and setting the scene for resolving inter-portfolio tensions at the Federal level.

**The 1997 Principles**

With the deferment of the NSW legislation, State and Federal Censorship Ministers were left with the ABA report's recommendations as the remaining viable policy development process. This report was accepted into the policy network for consideration by the Department of Communications and the Arts (later through the National Office of the Information Economy). Where as the Department had only one junior officer working on the issue under the BBS Taskforce period, the presentation of the report, and its associated impact on the policy network, brought greater interest by the Minister for Communications on the issue. In leading towards the development of a set of policy principles based on the ABA consultation, therefore, the involvement of the Department increased, with more senior officers being brought in to develop a response and consult with industry (Brian Stewart, interview: 22/3/99). This work lead to the release in mid-1997 of the policy document *Principles for a Regulatory Framework for On-Line Services in the Broadcasting Services Act 1992*. These Principles spelled out the establishment of a co-regulatory regime under the administration of the ABA. The scheme contained three key components (Department of Communications and the Arts, 1997b): the establishment of industry codes of practice under the direction of the ABA that would encourage community education and the production of labelling and classification technologies within Australia; a complaints mechanism within the codes aimed at providing members of the community recourse against material that would be refused classification (RC) under the OFLC guidelines; and the increased powers necessary for the ABA to identify industry segments and encourage industry groups to develop codes of practice for members of the segment, oversee unresolved complaints, impose

\textsuperscript{371}Reviewing letters to the editor or listening to talk-back radio.
standards where none exist, perform educative and research functions, and liaise internationally for the establishment of multilateral labelling and classification technologies. These principles directly reiterated the recommendations of the ABA report, relegating state legislation to a subset of the Federal approach, and setting explicit prohibitions for material that was, or would be, classified RC.

While the Principles were very different to that proposed by SCAG, industry and user groups did have concerns about the way the framework would work in practice. These problems took a number of forms: The Eros Foundation (1997), EFA (1997b), Western Australian Internet Association (WAIA) (1997), and Irene Graham (1997) saw inclusion of adherence to State censorship laws in the codes of conduct as stealthily increasing the level of censorship to that maintained by the strictest jurisdiction in Australia, while the Australian Internet Council (AIC) (soon to be the IIA) were not in favour of ISPs resolving complaints about content because they would have to make determinations of what level of classification the OFLC might award content that was the source of complaint (Cousins, 1997). Overall, the AIC was emerging into the debate in a way that made it distinct from groups like EFA. The EFA had developed an adversarial relationship with government—a view that tainted associated individuals and the WAIA (as Kimberley Heitman was linked to the executive of both organisations). On the other hand, the AIC, by focusing on simple industry issues of capacity to act and the compliance costs for ISPs of any government regime, positioned itself well to become an insider group that could provide a voice for commercial concerns. For Officers in the communications portfolio, this approach was appealing. Brian Stewart, for example, had come to Communications because of a lack of satisfaction in the results of working on macro policy, his personal interests shifting to policy areas that were associated with the direct generation of wealth. In relation to his career he states:

"you become a bit disillusioned with macro policy after a while because it is pretty largely impotent ... I think macro policy doesn't actually raise the speed limits [of growth in the economy] ... I think this is one of the areas, the information economy area, by actually targeting areas or creating areas of comparative advantage nationally is a way you can do that."

This industry-oriented approach was also favourable with the new Liberal Government, whom Coroneos found as open to their approach on the issues of content. This provided the IIA with a sympathetic hearing at the Departmental level, and access to the Minister for Communications and his Advisers.

In developing the framework for regulation that contained the core of a regulatory regime that industry would eventually accept, Richard Alston was able to dominate the policy network and claim responsibility for carriage of the policy from the Attorney-General. While this approach was touted and a "joint" process (Alston and Williams, 1997), emphasis on Federal regulation via the ABA limited the involvement of the Attorney-General to liaising with States over possible matching legislation for content providers—work that remained in limbo while Communications were feeling out the area. That this shift in the balance of power was uneasy can be seen in the way that the Attorney-General continued to issue press releases reaffirming the development of "Tough Laws for Offensive Internet Material" (Williams 1997) that SCAG was pressing for. However, the Attorney-General's position was weakening as the amount of policy development on Information Technology issues accelerated in late 1997 and 1998. This output produced important national statements like the industry policy Investing for Growth and lead to the separating IT sections from Communications into NOIE, with

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372 The Australian Information Industry Association (1997) had a similar view based on the complexity of not having a single national approach.

373 Provocatively for users and industry, the Attorney-General included a small extract-styled piece outlining the nature of ISP offences.
backing by the Prime Minister about the need for a National response IT opportunities (NOIE, 1998). NOIE, a free-standing Agency under the control of the Minister for Communications had the status to produce "big picture" policy statements (Towards an Australian Strategy for the Information Economy) and the money to reinforce its technical dominance by contracting politically neutral and independent technical reports (such as the CSIRO's Blocking Content on the Internet: a Technical Perspective). This transition in the balance of power within the policy network was also partially related to the seniority of Alston (as the Leader of the Government in the Senate) compared to Daryl Williams, but also the way that he had turned around the Communications portfolio in general. Under Labor, Communications had stalled with a number of very public and highly embarrassing policy developments (such as the Pay-TV decisions) giving it the status of "a poisoned chalice" that Ministers attempted to avoid (Michael Lee, interview). Alston, in taking on the portfolio had, while no immediate remarkable victories, an absence of embarrassing policy failures before the second round digital TV debate in mid-1999.

The Legislative Debate I: Relations within the Network

The introduction of the Broadcasting Service Amendment (Online Services) Act 1999 marks the end of the case study and can be seen to divide the issue of Internet censorship in Australia into two parts: prior to national regulation and after national regulation. While implementation issues and the nature of relationships within the policy network will shape the development of the regime from 2000 onwards, the legislative debate can be seen as both the conclusion of a policy process begun in 1996 under Michael Lee, and a distinct process in its own right. While the debate in 1999 was influenced by the emergence of the IIA as the only industry insider group within the policy network for Internet censorship, the legislative debate shows a complex power relationship within the network itself. Overall, we can see that the discretion of the Minister for Communications to act on the issue was high and he was willing initially to propose legislation that did not meet with the approval of the IIA. Within the debate, the power-dependant relationships between the IIA and the Ministers office gave the IIA the capacity to present their views directly to the key policy makers and this, in turn, lead to the development of amendments to the Bill that would substantially mitigate what the industry groups perceived to be a costly and ineffective piece of regulation. What is clear from the analysis, however, is that the strategies of groups within the policy network fail to explain the character of the public debate, leading to the conclusion that the impact of institutional actors at this period was important in shaping the final policy outcomes.

Between the release of the 1997 Principles document and the announcement in early 1999 of the intention to bring the Broadcasting Service Amendment (Online Services) Bill before the Parliament, a number of features changed within the policy network. Overall, the position of the IIA strengthened, with Peter Coroneos growing into his new job and developing his understanding of the industry structure and technological limitations of the Internet. Coroneos used his position in Canberra to form a close relationship with

374 Which, unlike the early Senate's use of Roger Clarke lecturing skills or ABA's reliance on Robin Whittle's expertise, could not be seen as coming from an "advocate" for any particular policy direction.
375 During the Keating Government, Michael Lee and Laurie Brereton competed for the more impressive Transport portfolio, with Lee being relegated to Communications.
376 Thomas (1998:1) notes that the establishment of NOIE has not lead to a revolutionary development in Australia's approach to IT in general. However Alston's approach has produced a lot of work in the establishment of agencies, development of reports and inquires into communications and information technology. Additionally, the political backlash from decisions on digital television conversion did not emerge until the second half of 1998 and didn't reach their full intensity until the middle of 1999.

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the Ministers Office and his Department. During this period of time the Adviser responsible for the area changed from Marie Kelly to Carina Chapman. Chapman, having just successfully negotiated the digital conversion legislation through the Senate, was motivated to get the policy finalised. Her view of the period following the release of the Principles document was that:

"We had an election policy in October last year, and a large amount of your job is fulfilling that mandate. I mean my mandate was to put in place the legal and regulatory framework for IT that had been sort of sitting since ’96 and had been wallowing somewhere."

Chapman, interested in "closure" was also more amenable to the IIA view than her predecessor whom Coroneos saw as taking a more "confrontationist approach" with the organisation. Chapman, however, had just come from a recent policy "win" where heavy negotiation with industry players had been necessary. For her the issue had not been progressing, and she pushed it along, developing the 1997 Principles into a for-Cabinet response and tracking it into the legislative process.

It was during this period that the policy developed, widening the Federal catchment of prohibited Internet content to include X and R rated material, and developing the requirements of ISPs to apply some form of mandatory filtering to non-Australian content moving through their systems. This change in opinion within the network was related to the developing work of, largely, American companies, touting their new content filtering products to governments and the private sector as an effective solution to content control (Montgomery, 1999:35). These arguments appear to have won favour with the Minister for Communications, stating on ABC radio that his view of the capacity of filtering had improved (Australia talks back with Sandy McCutcheon, Radio National: 24/3/99):

"I mean people used to say, well you couldn't possibly route everything through proxy servers because it would slow down the system dramatically. Now I don't think that argument is used today. So it's important to remember that this whole area is a very fast moving target. ... Well I've had a couple of new technology companies come to see me in recent days and it really opens your eyes. One of them are using what is called eye filter. It's based on an American technology where they have physically tracked eight and a half million web sites and are able to then check them and determine whether they would offend against a classification regime. And they can then guarantee you clean sites."

This view explains why, against the advice developed by NOIE and the CSIRO, the Government pressed ahead with a policy advocating mandatory filtering. These provisions were to see light in the legislation brought before the Senate in Division 4 of the initial legislation, specifying that (Parliament of Australia, 1999d:29):

If ... the ABA is satisfied that Internet content hosted outside Australia is prohibited content or potential prohibited content, the ABA must ... give each Internet service provider known to the ABA a written notice (a standard access-prevention notice) directing the provider to take all reasonable sets to prevent end-users from accessing the content.

Overall, while the legislation did not resort to being technically specific, it was far broader in application than was indicated in 1997, implying the necessity of ISPs to filter all offshore content, and not just take down material hosted within Australia.

377 Kelly leaving to work in the private sector.
378 Though an Australian company, Clairview Internet did appear before the Senate Select Committee on Information Technologies in 1999 showing their "Internet Sheriff Technology".
379 Section 56(2)d specifying that codes of practice would contain reference to filtering of this material based on "classes" of ISP.
For Peter Coroneos of the IIA, this enhanced filtering role was one that took the legislation well beyond that which he had been negotiating with the Government. His difficulty in the debate, however, stemmed from a limited assessment of the capacity of the IIA to prevent the legislation directly, stating (interview: 12/11/99):

"We read at the outset that we were not going to stop the legislation. Now this is, I guess, the big irony, that in the industry, was that, there are a lot of politically naive people out there that thought that this legislation could have been stopped. So it was a perceptual problem about the fact that we're taking which we believed was the right one, against what was probably the easier thing for us to do which was to go out screaming our heads off and so there was obviously that, we had to find a balance. Now we made some pretty strident public comments about this early on because we thought it was necessary to position ourselves as opposed, unreservedly, to those aspects of the legislation which we believed could never work, so we did that. So the strategy was really one of constructive engagement on the detail, privately, and publicly keeping up a firm pressure."

Having a close relationship within the network allowed him to press his case with the Minister for Communications. Additionally, with the establishment of the Senate Select Committee on Information Technologies to investigate the proposed legislation, the IIA was able to marshal together the technical and commercial arguments to support their views against mandatory filtering. Overall, however, while these views were picked up through the Senate Committee process, the IIA’s position within the policy network was not singularly strong enough to defer the filtering issue. That most of the technical experts who appeared before the Committee (the ACS, CSIRO, AIIA) were so strongly opposed to the notion of filtering, assisted in adding weight to the arguments the IIA were putting before the Minister, his Adviser and NOIE.

Thus, while the Minister announced his resolve to push ahead with the legislation, he did foreshadow "modification as a result of discussions with industry groups" (Yiacoumi, 1999b). With the end of the Senate session nearing, he moved debate on the Bill forward to resolve the issue quickly (Sinclair, 1999) and thus managed to avoid much of the public protests and rallies being developed by the EFA. As a result of the Senate process and negotiations with industry, the Government moved a number of amendments to the legislation, but most specifically for the IIA, enhanced requirements for the ABA to consider commercial and technical feasibilities in administering a content regulation scheme, and included the concept of "Recognised alternative access-prevention arrangements" (amendment 17) for dealing with international content (Parliament of Australia, 1999i:3–4). This second modification to the Bill was the key change to the legislation desired by the IIA, allowing the organisation, though Industry codes of practice, to have desktop filtering devices included within the regulatory regime. What this meant was industry could use a range of inexpensive, user-initiated technologies to meet the requirement to control international content, without subscribing to an ABA blacklist and forcing the Internet through a proxy filtering system. What is clear, however, is that, while the IIA prevailed in blunting some of the Government’s proposals for content regulation, neither the timing nor the structure of the debate was within the sphere of influence of the IIA. Thus, to explain the full nature of the legislative debate, we need to explore the role other groups played in shaping the legislative process.

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380 Attacking elements of the proposals through the news media (Coroneos, 1999).
381 Oddly the majority report (Senate Select Committee on Information Technologies, 1999) concluded that some areas of the legislation related to the compliance costs and technical feasibility of the legislation be examined in greater detail, its executive summary moved that the Bill be accepted without amendment.
The Legislative Debate II: The Importance of Institutional Actors

While the development of the legislation and its amendment in the Senate demonstrates the power-dependant relationship that was established between the Communications portfolio and the Internet Industry Association, the legislative debate shows the limited overall capacity of members of the network (industry, NOIE) to influence the outcome of the legislative process. What is evident is that the nature of the legislative debate itself was the product of precisely those institutional rules and procedures from which Rhodes's view of governance distances policy-making. However, from evidence presented by Rhodes's methodological approach (interviews) and the way that events developed within the case study, it is clear that these institutional process were critically important in 1999. While this is less evident prior to this date (although the structure of inter- and intra-governmental working arrangements was similarly institutionally determined), the need for a legislative underpinning of any regulatory regime for Internet content focused the final debate within the structures of parliamentary government: parties, Senate Committees and the legislative chambers themselves. This section, therefore, details a key part of an emerging critique of governance that is fully explored in the next chapter. Overall, what this analysis shows is that decision making with parties produced an adversarial stance between the Government and the Australian Labor (ALP) and Democrat opposition parties. While this opposition was not without internal party tensions, the decision by the ALP and the Democrats to oppose the legislation moved Senator Brian Harradine into the position of balance of power. While observers have emphasised the Senator's role in moving this legislation forward, his limited resources and personal mode of negotiating with the Government reduced his overall impact on the shape of the final legislation.

In essence, the Government's requirement for Senator Harradine's vote in favour of the legislation was necessitated by the opposition of the ALP and Australian Democrats. Senator Natasha Stott Despoja, representing the Democrats on the issue of Information Technology, was opposed to this form of Internet regulation and, given the general lack of interest within her party for the topic, able to commit the party to opposition of the legislation based on the force of her view (interview: 20/9/99). The ALP, on the other hand, were more divided on the issue, with tensions between Senator Kate Lundy and the Shadow Minister for Communications, Steven Smith MP, over which direction the party should take. This situation arose because the division of labour for Information Technology and Communications was not clearly resolved within the Shadow Cabinet. Lundy had established herself as a Shadow Minister with a keen interest in Internet issues, picking up the role of Assisting on Information Technology in mid-1997, well before general interest in the issue of Internet censorship emerged, whereas Smith nominally had carriage of the area because he matched Alston's portfolio. This demarcation dispute was heightened by a big difference in the views of the two Shadow Ministers: a difference of opinion that was only to be resolved through lengthy debate within the Shadow Cabinet itself (which Senator Mark Bishop understood to be "lengthy", lasting for an hour and a half, interview: 30/6/99). Kate Lundy recalls the debate (interview: 8/12/99):

"There was a very clear view within the Party that, generally, that Alston's agenda was being carried at a level that would be extremely difficult for Labor to oppose. It was conveyed and expressed, certainly through the Shadow Minister that to oppose Alston on this issue would paint us as being pro-porn. That drove a lot of the early discussion in the party and certainly drove the approach expressed by the Shadow Minister in his presentations to the Party, to the Caucus and to the Party. My view, and with a high degree of sympathy from many others in the Party, differed from that, in that, by virtue of our knowledge of the CDA and so forth in the US, that there was a lot more at stake here than just a populist moral ascendancy agenda by a conservative
government. And I was gravely concerned that, because of the underdeveloped public debate in this country that we would find ourselves in an insidious trap that we would ... leave, not only the Labor Party in an appalling, untenable political position, having allowed itself to languish in ignorance, but also to loose an incredibly important opportunity to define ourselves with respect to the Internet and the Information Society about what counted and what principles were important in this new media. And really it was the presentation of those issues that changed the prevailing view within the Shadow Cabinet. It was not the view that was presented by the Shadow Minister ... I think it could have gone either way in Shadow Cabinet, and feel the fact that it went my way was probably the most significant political achievement that I've ever had."

However, while Lundy was able to get the Party of commit itself to opposition of the legislation, her position (a new, junior Shadow Minister, from the left faction of the ACT branch of the party) was not strong enough to be granted coverage of the legislation during the Senate Debate.

Within the Senate Mark Bishop, as Smith's representative in the Senate, was given responsibly for managing the Senate debate and leading the ALP commitment in the Committee process. Unlike Lundy, Bishop was neither particularly committed to the process or especially opposed the aims of the legislation. He saw the ALP ideology as entirely consistent with regulation in general:

"the ALP, we're not a party of absolute choice, or a party rooted in freedoms. We're a party of regulation, both social industrial and economic. They are our roots. That's what makes us different."

Additionally, his pragmatic assessment was that any electoral repercussions of the Party's position was nominal. Overall, his analysis was that:

"There was a remarkable degree of non-interest in this whole debate, outside of the aficionados. I mean I got stacks of email, form email, that's just garbage you throw in the bin ... but in terms of, did I get reams and reams of letters? Did I get lots of phone calls, here or in Perth? Not one. So I conclude from that: this is a non-issue."

Thus, the ALP went into the Senate Select Committee deliberations on the issue with a nominal opposition to the legislation, but one that lacked either consensus or had strong backing from the different factions within the party.

These tensions were evident to other Committee members, as Stott Despoja observed:

"The uncertain card was what the Labor Party was going to do. And ... I genuinely could see tensions in the ranks in terms of the Committee, two committee members. But also just more generally how Beazley would come in, perhaps over the top of the process, or Smith come down over the top of the process, and what their particular views would be."

Stott Despoja was predisposed towards Lundy's views on the legislation, and her staff liaised with Lundy's, rather than Smith or Bishop's office over the legislation. In the end, the ALP didn't take a definitive stance on the Bill, presenting instead, a thin set of amendments aimed at increasing the ABA consideration of industry concerns over the regime and a sunset clause for the Act (Parliament of Australia, 1999ii). These amendments were far less substantial than that proposed by Senator Alston and the bottom line for the ALP was only based on the Government's acceptance of the subset clause provision (amendment 1). Thus, had the Government negotiated with the ALP and accommodated the sunset clause provision, they could have put a great deal of pressure on the internal differences within the ALP. However, the speed to which the
policy was moving did not accommodate these kinds of cross-chamber negotiations, and the Government believed that it had enough support from Senator Brian Harradine to get the legislation through without further delay.

While Brian Harradine was willing to present his limited endorsement of the approach (Harradine, 1999:31–2), this view was based more on the fact that, after five inquiries by the Senate, the Government was finally acting in some manner. Indeed, Harradine remained very sceptical about the “good will” of the industry in the process of self-regulation, and regarded the work of the ABA in television regulation (reiterated in this debate) as a very “weak regulator”. Harradine, cast into the balance of power position over the legislation, was in a position to present these criticisms to the Government in exchange for favourable amendments. However, he held a distinct view of his position, stating (interview: 21/9/99):

“You might say ‘Well if you have the balance of power why didn't you just say' (clicks fingers) go ‘bla, bla, bla, bla', you know, tell the Government 'Do this and I'll do that'. No, that's not the way I've been working. I always believe that it's very important for democracy to have national, open debate, and preferably go through committees.”

With a wide range of political issues on his agenda, Harradine preferred to use the Committee process, both as a useful source of information and a way to put his views and concerns on the public agenda. His involvement in the Goods and Services Tax (GST) debate is illustrative of the process: rather than negotiate directly with government, he used his Committee position to highlight areas of concern about the equity of the approach. In doing this he expected a response from the Government—not in negotiations with the Minister of his Advisers, but through amendment within the Senate chamber itself. That this process remained at arms length is illustrated by the fact that the GST was rejected by Harradine in the Senate debate directly upon his conclusion that the Government amendments were unable to meet his concerns (Meet the Press, 23 May 1999). This act threw the legislation back to the Government, who had to begin the process of negotiating directly with the Australian Democrats. In applying this approach to the issue of Internet censorship, therefore, the recomposition of the Senate Select Committee on Information Technologies provided the Independent Senator with a way of having the legislation reviewed, and its pros and cons debated in detail for him. Based on this review, he was then able to voice his concerns to the Committee, and to Carina Chapman, sitting in the public gallery.

In this, however, we do not see the type of accommodation that other commentators have stressed as the key to explaining the legislative debate (Murphy, 1999; Casimir, 1999; Riley, et al., 1999; Fist, 1999:60; Hollands, 1999:4). These views have taken two forms: either the legislation as a whole was presented to win the Senators support for other Government legislation (GST, Telstra sale); or the timing of the legislation was aimed at producing this result. While the latter view may have some value, because of the way the legislation was brought onto the agenda quickly where it had been languishing for years in negotiation and development with the Department of Communications and NOIE, it is difficult to see any evidence for the former view. Harradine, having been involved in the issue through numerous Senate Committees was not ignorant of either the developments that had been occurring in the area, or the technology in question. He had recognised that the legislation was substantially lighter than the strict legal enforcement regime that he had advocated as a member of the Senate Select Committee on Community Standards Relevant to the Supply of Electronic Technologies. Thus, in amending the legislation to allow for alternative access-prevention arrangements, the Government could have been seen by the Senator as

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382 The ALP's position on the legislation did not emerge until the Bill's amendments were being debated, and the legislation passed through the Senate chamber very rapidly.

383 However, Carina Chapman's view of events would seem to discount this hypothesis.
weakening their response, only offering him minor changes to the regime via amendments that restricted unsolicited email advertising pornographic webpages. However, given his workload at the time\textsuperscript{384}, it is clear that he was unable to track the complicated changes to the legislative regime during the Senate debate\textsuperscript{385}.

Overall, however, the position of Harradine in the Senate was such that the Government could feel confident in his support for the legislation, even if it didn't meet his preferred response on the content issue. As the ALP had signalled opposition to the legislation, and with the Democrats soon to replace him in the balance of power, Harradine knew that he was unlikely to see new legislation that would be an improvement on the amended \textit{Broadcasting Services Act}. Thus, rather than being able (or willing) to wield his position of balance of power to force tighter legislation, he was a player in the political game with a position that was rapidly weakening, both in terms of the amount of time he could take to negotiate policy, and the number of Government Bills he could forestall to ensure compliance. In the end, while the Independent Senator rejected the GST package, his latter support for the privatisation of the national telecommunications company brought with it additional funds to the Senator's home state for Internet censorship technology research.

\textbf{Conclusion}

In applying Rhodes's theoretical framework to the case study we can see how the changing issue of Internet content regulation developed a small policy network of governmental units. Through policy debates the network incorporated the input of a wide catchment of industry and user groups, and inter-departmental tension and conflict at the State level lead to a shift in responsibility for the policy development from the Standing Committee of Attorney-Generals to the Communications portfolio. With this shift in responsibility moving the policy into a Department favouring a co-regulatory approach for Internet censorship, the emerging Internet Industry Association was able to develop resource-dependencies with members of the policy network, based on informational resources and acceptance of the rules of the game with which the network was constituted. This insider status, while favouring the views of the IIA and strengthening the emerging policy response from the National Office of the Information Economy, did not preclude other technical groups from influencing the process, with informal information exchanges and pressure occasionally strategically applied to influence the outcome of debates within the policy network. Overall, however, while dependency relationships with the IIA influenced the final outcome, the position of the Minister and his staff was critical in determining the timing and shape of the legislative response to online content.

Therefore, in considering the role of institutional players at the final point of the case study, it is possible to highlight limitations with the model proposed by Rhodes. While governance sees the network as central to the formation of policy, the impact of institutional players in this case was significant in the way that the final policy was developed. Thus, while the position of the IIA was such that it could have its concerns converted into serious amendments to the Minister's legislation, it was unable to influence the very public and round-about manner in which this occurred. This debate, in turn, was influenced by the timing the legislation entered the Parliament and position of the Opposition parties and Senator Harradine in respect to the proposed legislation. Thus, in developing a critique of Rhodes's view of governance, as it applies to the Australian context, these and other problems with the explanatory value of the approach will have to be addressed in the next chapter.

\textsuperscript{384}An exhausting amount of work that placed a lot of physical pressure on the Senator, who suffered from a minor stroke in the middle of 1998.

\textsuperscript{385}As the Senator had neither a recollection or appreciation of the importance of the key Government amendment.
Chapter Eight
Critique and Reformulation*

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Introduction
Following the first two chapters of this Part, this chapter brings the case study findings together for comparison, cross-verification, and the identification of methodological and theoretical limitations of the analytical frameworks used. The chapter is divided into four sections. The first section compares the findings of the approaches; by looking at the overall picture presented by the case analysis based on Sabatier’s and Rhodes’s theories, we can see that the approaches are complementary, but not interchangeably compatible. Such complementarity enriches the case study, highlights areas of similarity and difference between the analytical foci of the approaches, and finally serves to identify lacunae where neither approach provides analysis or explanation of observed phenomena. The second section examines the methodological limitations of the two research approaches, based on their application to the case study. These limitations are defined as areas that either limit the scope of analysis, or place undue emphasis on some elements within the policy process at the expense of others. These weaknesses should be considered in reading the analysis presented in his Part. The third section, provides a critique of the two theories intrinsically and in the context of the Australian political system with its different legal and constitutional rules, history, culture, institutions, and processes. What this section shows is that, in the context of the case study, a number of elements of the underlying conceptual model of the process of government may not be applicable to the indigenous realities of Australia. Finally, the fifth section of the chapter brings these criticisms together, presenting a number of suggestions for improving the two models, highlighting these as areas for reform, should the researcher wish more accurately to "cast their nets" in Australian waters.

Perspectives on the Case Study
One of the most obvious points of contrast between the two research approaches is the differing levels of abstraction with which the case is examined. For Sabatier,
developments in policy subsystems are a function of changes in blocs and movements of ideas through a meso-level subsystem of political actors and processes. The Advocacy Coalition Framework (ACF) takes the presence and absence of coalitions, and the relative position of administrative agencies in relation to these clusters, as important indicators in the direction of policy development, relegating decision makers to a specialised role in the process (sovereigns controlling key “decision points”). Overall, the ACF shows how groups move around a subsystem comprised of larger entities (coalitions), with the relative deployment of these coalitions serving to determine the direction of policy development, implementation, and reformulation, measured over time. For Rhodes, however, while his policy network concept is similar to the policy subsystem (it can be seen as forming a part of the subsystem at the subgovernmental level) and can be seen as a meso-level analytical construct in the same way as advocacy coalitions (as a designation applied by the researcher as a means of categorising particular groups and individuals in the policy-making process), the focus of the Governance approach is more concerned with the micro-level: the actions of individuals and organisations, their strategies, and inter-personal and organisational relationships. These different levels of abstraction are manifest theoretically, and in the way they are operationalised into research methodologies: with Rhodes talking to individuals and getting this personal perspective; while Sabatier looks to the artefacts produced by subsystem participants.

Given these quite fundamental differences, we can see a number of areas where the two approaches complement each others’ understanding of our case study, with the ACF providing an overview of the deployment of groups on the policy issue, and Governance showing the pattern of interactions between specific key individuals. Thus, for Rhodes's analysis, the "big picture" presented by the ACF can show how interview data fits in with the wider picture of the policy debate. Given the focus on a discrete number of individuals for interviewing (elites), the methodological broadness of the ACF allows the researcher's understanding of the policy network and associated outsiders to be examined in light of their relative views on the policy under debate. For Sabatier's approach, the data developed by Rhodes's approach can be used to "fill in" some of the gaps in data collection points, and help explain variances in the data collected and the relationship between some of the subsystem members.

**Sabatier Informs Rhodes**

In Chapter Seven, analysis based on Rhodes's view of Governance identified a collection of public and private groups engaged in exchange relationships who developed the policy response to the issue of online content. This "policy community" was largely comprised of governmental agencies who were bound together by constitutional, legal, and political dependencies, themselves a function of the historical division of labour in the censorship policy area. This chapter also demonstrated the small number of non-governmental organisations that had managed to become formally connected with the policy community: Young Media Australia (YMA) in a minor capacity, and the Internet Industry Association (IIA) as the future co-regulator of the Australian online environment. The chapter also showed the presence of a "catchment" of groups on the edge of the policy community which had discontinuous, informationally-oriented resource exchanges with elements of the network (termed the "Linkers", who were connected to the policy network through the Department of Communications, Information Technology, and the Arts and the Australian Broadcasting Authority). However, what was important to note was the policy community's pattern of resource dependencies were largely not voluntary connections, but extensions of other processes (law, convention, "good government", due process, etc.), therefore, the closed nature of the community understates a level of fundamental disagreement among some network members. This tension was evident in the two distinctly different regulatory models proposed for online content, and can be seen as played out in the 1996 NSW draft legislation debate, where the Australian Broadcasting Authority (ABA) was at odds with the NSW State Government and, essentially, members of the Standing Committee of Attorneys-General (SCAG) and the Attorney-General's portfolio members.
Essentially, this question of intra-policy community conflict and tension can be expressed in a more "Rhodesian" manner, describing the nature of these relations from his typology pictured in table 3-2. That is, the policy community, while having a high degree of independence from external actors (i.e. insulated from Parliament), containing functional interests, and tightly regulated membership (closed to new entrants), lacked the widespread horizontal integration (between policy development and service delivery) of a policy community actually implementing (rather than developing) policy (Rhodes, 1986b:22). Thus, while the network had a degree of compartmentalism from other related policy networks (such as broadcasting / narrowcasting technical regulation or censorship), it was not entirely distinct from wider debates about content regulation because of the decision by the Commonwealth to include "expert" regulators with experience with other media. While these variations from the "pure" type of policy community can be seen in a comparison of the case from the typology presented in Chapter Three, and reflect the truism that the value of analytical typologies are compromised by the tendency for the archetype to confuse when variations appear in practice (Kellow, 1981:36; Rhodes, 1992b:251,3), this observation is important in further explaining the nature of this particular policy community. Figure 8-1, a modified duplicate of the policy community diagram presented in Chapter Seven, has been overlayed with the general coalition membership of the groups included in the policy community\(^{386}\). What this figure shows is how to distinct "spheres of influence" existed within a policy community that was, on the surface, bound together.

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\(^{386}\) As noted in the figure, only some of the "groups" are formal, thus the "Linkers" and SCAG hold members with multiple dispositions. Additionally, the "general" deployment of these organisations is taken from the 1997–8 period, prior to the realignment of the ABA and National Office of the Information Economy (NOIE) following the release of Government legislation.
In this figure, therefore, we can see how the policy community was generally aligned into two different camps, one predisposed to the views of the pro-regulation coalition, and the other towards that favoured by the light regulation coalition. While this explains the tensions that were apparent prior to the emergence of the Minister for Communications, Information Technology, and the Arts as the key sovereign in the policy subsystem, it also shows why elements of the pro-regulation argument remained actively on the political agenda, regardless of the level of activity of pro-regulation interest groups (such as during 1998, where few pro-regulation players remained active in the public debate, some moving into the light regulation coalition, and some members exiting the subsystem permanently). What this modified network map shows, therefore, was the limited significance of non-governmental members of the pro-regulation coalition in sustaining the push for tighter regulation over the life of the case study. As the Attorney-General's Department remained engaged in the policy network (even if it was not a public participant in the policy debate), the argument for stronger regulation was "kept alive" within the network itself. Thus, while the final outcome of the legislative debate in 1999 reflected the dominance of the light regulation, the appearance of stronger regulatory elements in the legislation is less surprising when one considers the views of groups comprising the policy network who had insider status in the process of policy development (even if this was simply at the level of inter-departmental consultation and information sharing).

Rhodes Informs Sabatier

Given the insight that Sabatier's use of cluster analysis provides the policy network, Rhodes's micro-level focus is useful in explaining elements of the ACF's "big picture". The concentration of Rhodes on the collection of detailed information from limited numbers of participants is useful in explaining some of the subtleties affecting the alignment of groups in the policy subsystem where the sampling of formal policy statements underplays internal organisational complexity. This information is useful in explaining periods of action and inaction among participants, such as the decisions of members of the pro-regulation coalition to leave the policy subsystem (for instance the Religious Alliance Against Pornography and Executive Council of Australia Jewry pursuing other issues or strategies to maximise their resources), or temporarily realign themselves within the subsystem (for example, YMA's move to the light regulation coalition temporarily based on Toni Jupe's limited assessment of the likelihood of a strong regulatory response in 1998, moving back into the pro-regulation coalition with the emergence of "strong" legislation in 1999). Additionally, given the tendency for clusters of related individuals and organisations to be engaged in fora within the policy subsystem based on the salience of the issue to their core values, Rhodes's methods allows for examination of variance within these aligned groups and individuals, especially where these fail to fall within the same cluster.

The key example of this phenomena in the case study is the disposition of Electronic Frontiers Australia (EFA), the Western Australian Internet Association (WAIA), and individuals that are members / organisers / executives of these groups at different times throughout the case (Irene Graham, Michael Baker, Greg Taylor, General Products Ltd. (i.e. Peter Merel)). What the dendrograms in Chapter Six demonstrate is in a number of periods where tension is relatively low in the policy subsystem (1995, 1997, 1998), these related individuals and organisations are spread between the two different (if connected) coalitions favouring no or limited amounts of government intervention. As

387 By 1999, policy development for the online content regulation issue had been moved further away from the Attorney-General's portfolio, from the Communications Department to NOIE.

388 Who moved in and out of the executive depending on personal commitments.

389 Who later left the organisation, moving to the United States.
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this chapter demonstrated, this dispersal was limited, and during periods of conflict and tension (1996, 1999) the organisations and individuals tended to move back into the no regulation coalition. From the interview data gathered from members of the board, it is possible to show the variation in opinion as a function of the nature of the EFA as an organisation. Several points need to me made: First, for the EFA, online censorship one of, if not the, key issues for the organisation. The EFA had been established in response to regulatory noises from government, and was still very young, with founders and founding issues still a core part of its political focus. Additionally, given the tendency for membership "spikes" during periods of public conflict (invariably over online censorship issues390), the membership was likely to reflect this concern and want to see the executive active on this issue (whereas others, such as cryptography could be handled within committees). Second, as Irene Graham notes (interview: 29/12/98), the Association was bound together by volunteer labour, which meant that:

"we really get involved with and take on issues that we are personally interested in. I mean nobody told me 'You'll go and do this submission or you'll go and do that.' The people offer to do it and say someone else wants to help with this. It's just basically a co-operative of people who want to do these things."

Thus, given the salience of the issue to members (and especially board members who were most motivated to act by writing personal submissions to government inquiries), the organisation remained highly prolific. Additionally, given the Association's public commitment to freedom of expression, it could not (or would not) suppress the involvement of individual board members whose views varied with the overall direction of the EFA policy at particular points in time. Given the diverse composition of the board (professionals (Information Technology (IT) and other), civil libertarians, industry members, etc.), there were points of disagreement and refinement of the EFA position over time. As Kimberley Heitman (interview: 20/4/99) notes:

"Members of the EFA board are not necessarily of the same mind. We've had the situation where there are people on the board who are very much involved with the ISP [Internet Service Provider] industry and there are people on the board who are strictly consumers and who consider ISPs are the most proximate danger to free speech, having regard to their capacity to censor."

additionally,

"all the members of the EFA who are active at the board level have got their own particular focus on what is free speech and what is not. It was quite significant when we changed our policies a while back to say that, instead of simply going for what is legal offline should be legal online, we're now focusing on, perhaps, a more sophisticated position of saying that because what is legal online varies so much from jurisdiction the laws relating to posting and hosing Internet material have to be taken in a global perspective, irrespective of weather or not offline media is subject to tighter restriction. So effectively what we are saying is that the export of the First Amendment from the United States though the Internet is a reality that the world has to deal with."

Thus, while other organisations may come together because of a general homogeneity of views (such as the NSW Presbyterian Women's Association Social Issues Committee), or shared commercial interest and are willing to allow an industry body a near monopoly on representation for the sector (such as the IIA or Australian Information Industry Association), the EFA was relatively unique in this multiplicity of views and engagement with the issue. What this shows is that, within the range of variation identified in Chapter Six in the intercoder reliability tests, the EFA board had a diversity

390 The Commonwealth was slow to tackle related content issues (hate speech, gambling) or wider online issues (privacy, cryptography, broadband access) compared with online content.
of views that shaped its approach to the issue: sometimes dominated by "doves" with compromising views, and sometimes by "hawks" with a more aggressive stance.

Given that the EFA offers Sabatier's methodology a range of points of measure, it is possible to apply this insight to other groups within the policy subsystem that share the EFA's approach to policy discussion (i.e. groups without secretariat services / long term executive directors, etc. to regularise submissions and ensure consistency from year to year). This type of variable subsystem position can be identified in organisations like the Communications Law Centre and Internet Industry Association of Australia (prior to the IntIAA developing into the IIA), groups which tended to drift around the policy debate, reflecting the variation in view held by volunteers willing to present / submit to the various fora for policy debate. Given the stability of various groups / individuals in the "general EFA cluster", it is possible to see how changing individual responsibility for submission impacts upon the position articulated by the organisation, whereas groups consistently represented by particular individuals—such as the IIA (Peter Coroneos), WAIA (by Kimberley Heitman), ACS (Tom Worthington)—retained more consistent positions in the general deployment of groups throughout the life of the case study.

Outstanding Questions Surrounding Online Content Regulation
As a novel policy process in the recent political life of Australia, the issue of online content regulation provides an interesting insight into regulatory policy making in Australia today. Given the exploration of the general regulatory trends in censorship in the last two decades presented in Chapter Five, the prospect of government introducing the type of direct "command and control" form of censorship for new media technology was a variation from this trend. Given the increasing importance of the Internet (and related business) sector in the Australian economy (partially driven by the "dot com" stock bubble of the latter twentieth century), this form of "light touch" approach to government coercion for online content control was probably inevitable. Thus, while the case shows the dominance of the broadcasting / narrowcasting co-regulatory model on the development of the Broadcasting Services Amendment (Online Services) Act 1999, the range of regulatory approaches touted for online content (law enforcement, metatag classification filtering, blacklists, etc.) was unusual in the wider scope of options that were seriously considered at the political level at particular points in time (especially during the period 1995–7 and in 1999). Thus, while the two research approaches give an interesting perspective on the political process underlying the legislative development of the online censorship, a number of factors remain unexplained by either the view of Governance or that presented by Sabatier's framework. Essentially, while the application of data from the ACF to explore the composition of the policy network (figure 8-1) shows support for the position of the pro-regulation coalition within the "insider" set of the policy community and therefore explains to some degree how these views stayed on the political agenda, the implication of this finding presents a number of insights into the two approaches that serve as the fundamental points of departure between the analytical models presented in Chapter Three and a reformulated version of them required for application to the Australian political process.

First, as was discussed in Chapter Three and presented diagrammatically in Figure 3-7, the inclusion of different coalitions within the same policy network seriously undermines any desire to form a compatibility between the ACF and policy network approach. This is an important consideration, especially when considering that members of coalitions that "dominate" the policy subsystem, and tend to "act in concert" (from Sabatier), could be conceptualised as a "policy network" (from Rhodes). An example of this is found in Lertzman, Rayner, and Wilson's (1996:127–8) assessment of developments within the British Canadian forest policy sector using the ACF. In this case study (albeit undertaken without the use of cluster analysis), they see coalition membership as directly equitable with the concept of policy network, and apply network behaviour axioms to explain developments in the policy subsystem. Thus, it is possible to overly
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conflate the two meso-level conceptions in a way that undermines the value of both approaches: networks based on resource exchange and not necessarily on shared values (outside of the network's internal rules), and coalitions based on value similarities without necessarily having to have concrete exchange relationships. While this finding does not negate either view's analytical value, what it shows is that: (a) the composition of networks, even tightly "autonomous" policy communities, does not provide fundamental insight into decision making, conflict can and does exist within policy-making communities, and they must be explored in more detail to determine why certain political outcomes occur, and (b) there is no absolute relationship between value similarity among groups and individuals within advocacy coalitions and any tendency for them to act in concert, or form long-term ongoing resource exchange relationships when compared with groups and individuals in other coalitions. This second point is especially salient when one considers the views presented by members of the "Linkers" (Tom Worthington, Karl Auer, Danny Yee in interview, and Robin Whittle; 1996a–c) who acted in concert based around their membership of the link list, a community far more cohesive than their membership of different (and by nature competing) advocacy coalitions. Second, it is clear that the policy community in the case study was dominated by Liberal Senator Alston and his portfolio. This domination is evident by the division of responsibility for development of the policy post-1997 between Alston and Williams, essentially a decision of the Federal Coalition Cabinet that defined the issue as "communications" rather than "censorship". In this division, the involvement of a multiplicity of groups and organisations surrounding the Communications "sphere" (either directly, such as the ABA, National Office of the Information Economy (NOIE), Commonwealth Scientific and Industrial Research Organisation (CSIRO), or the various "Linkers" at the informal level) and, conversely, the power of communications to exclude groups from formal network membership (Whittle again) illustrates the Minister's position, as does amount of resources employed by the Minister for Communications on the issue (compared to the Attorney-General). What is obvious, however, is that neither the longstanding position of the Department (then NOIE) in the light regulation coalition, nor the alternating position of the ABA clearly indicates the Minister's thinking on the issue. Given sampling limitations of both approaches, discussed in the next section, and the relatively erratic nature of the policy development (the on, off, on, off inclusion of elements of the pro-regulation coalition agenda in the Commonwealth legislation), it is uncertain how the role of the Minister and his portfolio (Office, Party, Department, and associated Agencies) functioned in relation to the legislative outcome. Finally, given the complexity surrounding the 1999 legislative debate, questions arise about the relationship of the pro-regulation coalition and decision making within the policy subsystem. Does the Minister's decision to include elements of a stronger regulatory regime show the impact of the pro-regulation coalition on his decision making (regardless of their disconnection from the policy community and relative alienation from the core of debate in the policy subsystem)? Does this indicate greater tensions within the community between the Minister and the Attorney-General's portfolio? Or does this indicate a predilection by the Minister for the position of pro-regulation pressure groups (as is implied by the movement of NOIE and the ABA dramatically from 1998 to 1999, illustrated in figure 6-12 of Chapter Six)?

**Methodological Criticisms**

This section details a range of methodological limitations of the two approaches (sampling limitations and problems associated with missing data), as determined through empirical application to the case study. It is, therefore, important in considering the value of the analysis presented in Chapters Six and Seven (in addition to the pre-existing limitations drawn from secondary sources listed in Chapter Four), as well as considering ways to improve the value of the two approaches, via a more rigorous methodology. In exploring these methodological problems, this section is important in highlighting elements of Sabatier's and Rhodes's theoretical conceptualisations of the policy process that are not sufficiently investigated empirically. Overall, what this

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examination shows is, in developing methodologies based on practical sampling considerations, both approaches have problems collecting elements of data essential to the investigation and exposition of the case study. The two approaches are discussed, in turn.

**The Advocacy Coalition Framework and the Limits of Sample**

The key methodological criticism of the Advocacy Coalition Framework is its reliance on the output of the fora of political debate produces sampling distortions. These distortions can create one basic sampling error: confusing the engagement of groups and individuals in publicly-observable analytical debate with the universe of subsystem actors. Thus, by focusing data collection from these policy fora, Sabatier ignores a number of key players (some sovereigns, policy brokers, and coalition members), and over-emphasises the importance of others because of his decision rule for sampling. Within this problem, the belief that parliamentary committees are less politicised venues for value articulation is highly questionable, and the validity of these processes as sources for data collection can be questioned. Where non-technical or areas of problem definition lie in dispute, this problem appears to become manifest in missing data errors and a reduced set of measures against which subsystem members can be compared. In making these criticisms, however, it is important to remember that the approach advocated by Sabatier can and does present information that can be confronting to the researcher, occasionally presenting unexpected results. This underlying benefit of the methodology was evident in the data sets presented in Chapter Six, leading to a focus on the relationship between the EFA and it's associated "catchment" and the position of the ABA at certain points in the case study. Thus, while interview data can be selectively validated or discarded, the statistical process of constructing a dendrogram produces a single output for each longitudinal data set that must be utilised in its entirety, forcing the researcher to address findings that are not "neat" or that fit a preconceived set of views about the case.

(I) Sample Universe versus Subsystem Universe

By focusing attention on the use of political "arenas" of policy debate as the source for longitudinal data, Sabatier and Jenkins-Smith (1993) neglect a range of relevant and potentially relevant players in the analysis. This problem is apparent when one compares the two initial sampling frames for Sabatier's and Rhodes's approaches (as listed in Appendix 6.1 and 7.1), with sampling for the ACF excluding a range of key elites, party members, advisers, and bureaucrats. Whereas Chapter Four criticised Rhodes's use of "snowball" (reputational) sampling on the grounds that reputation did not equate to influence, it is possible to make a similar critique of Sabatier: that participation is not a measure of impact. The dendrograms presented in Chapter Six show the deployment of pressure groups and some government agencies and departments in the policy subsystem, but lacks the position of key sovereigns (Liberals Richard Alston and Darryl Williams, Independent Brian Harradine, the Prime Minister and Cabinet, and various State and Territory Ministers) and their key policy staff (Nick Grono for Williams, Marie Kelly and Carina Chapman for Alston), members of opposition parties (Labor's Stephen Smith, Kate Lundy, Mark Bishop, the Leader of the Opposition and Shadow Cabinet, and Democrat Natasha Stott Despoja and her parliamentary party), and, depending on the political climate of the time, some government agencies and departments (NOIE, OFLC, Department of Communications, Information Technology and the Arts, the Attorney-General's Department). Essentially, the methodology is limited in its focus on public events that are easily observable and codable, at the expense of the discrete actions within the legislature, private debate within the political parties, and decision making in Ministerial offices, agencies, and departments.

This approach limits the understanding of the impact of political debate on the position of key decision makers (and their associated advisers) in the ACF, presenting a large hole in the picture of the policy subsystem painted by the framework. In taking government consultation processes and parliamentary committees as data sources, the approach
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stresses the importance of the public debate as the "arena" of policy-oriented debate and learning. What we have seen, in interview data presented by Labor's Michael Lavarch and Margaret Reynolds in Chapter Seven, is that these fora can lack any serious connection to the policy-making process, depending on the political salience of the issue at hand, the disposition of the Government, and the motivations behind the formation of the Inquiry process\textsuperscript{391}. Thus, at certain times, the ACF can be seen to examine the sideshow, while the real processes of government continue in more rarefied atmospheres. In making this point, however, two things need to be made clear: First, regardless of the level of seriousness with which Governments or Agencies took these processes, the participants may be presenting genuine and sincere views on the political debate (thus validating the data provided from the fora); and, Second, given the distorted composition of the sampling technique, groups engaged in the policy debate on an ongoing basis (and therefore subject to inclusion and analysis based on the decision rule for sampling), may not be relevant in shaping the overall political outcomes of the policy debate. Thus, while the analysis presented in Chapter Six shows a wide range of engaged groups and individuals in the policy debate, the activities of organisations like the Presbyterian Women's Association (NSW) were largely contained to the process of inquiry submission and lacked any discernible political influence. Given the impact of the sampling decision rule, groups that engaged in the policy debate at particular times were also not included in the final sample (such as the Australian Consumers Association (ACA)\textsuperscript{392}), a problem that further emphasised some groups simply on the basis of participation over time. Overall, inclusion of additional purposive sampling might be useful in addressing this final problem.

\textit{(II) The Political Nature of the Australian Parliamentary Committee System}

A second problem resulting from the data source lies in the supposition by Sabatier and Jenkins-Smith of congressional committee hearings as sources of the "individual true value" of submitters' beliefs and values (1993:243), at least at some level of the three-tiered belief system. This view is based on the idea that "the propensity to alter beliefs to fit an audience diminishes as one moves from the general public to narrower sets of elites" (Sabatier and Jenkins-Smith 1993, from Goggin; 1984). For Sabatier and Jenkins-Smith, these committees are, by definition, comprised of subsystem members, thus, there is a freedom to express true opinion in these fora that would be suppressed in other arenas (i.e. wider public debates or other subsystems), or in other documentary sources (policy documents, news articles, etc.). While the groups in the subsystem generally tended to maintain consistent positions (as is also asserted by Sabatier and Jenkins-Smith as a mainstay of these fora\textsuperscript{393}), the view that parliamentary committees—as the closest substitute for congressional hearings available for study—are useful in ascertaining the true value of submitters is doubtful.

The view of parliamentary committees as "depoliticised" (or, more specifically, relatively unpolarised) at particular points in time can be found in the case study, however, doubts about the general application of Sabatier and Jenkins-Smith's "neutral forum" proposition

\textsuperscript{391}This view was also one shared by some of the non-government members of the policy subsystem. Peter Upton, for example, (interview: 29/1/99) stated:

"\textit{The far more interesting thing is the question of who's on the Senate Committee, and if you find it's the usual gang of suspects and they're not actually plugged into government policy making processes, I suppose my view is to treat it as not being particularly important. It is a piece of the political process that might assume importance if the environment changed. But if you think, you assess the environment as not about to change then its more of a steady as she goes submission.}"

\textsuperscript{392}Only submitting once over the life of the case study. The ACA may become more active in future debates, but in the context of the analysis (until 2000) are excluded from the sample.

\textsuperscript{393}The consistent articulation of view is part of the "culture of seriousness" of subsystem debate.
can be found from data in the case study, secondary sources, and analysis of the case itself. In the first instance, as outlined in Chapter Five, the Senate Select Committee on Information Technologies inquiry into the *Broadcasting Services Amendment (Online Services) Bill 1999* was highly political, with little pretext given to the actual solicitation of information by Government Senators who were there to defend their own legislation. This was not simply evident in the way the Committee was constituted and conducted, but the lack of any substance in the majority (Government) report of the Committee. Secondly, while the Senate Committee system can be a simple tool for expediting the machinery of government, with committees serving as a useful bi- and multi-partisan process for improving the "quality" (the political acceptability) of legislation, this is not always the case. In reviewing the contested role of the Senate in the political process, Mulgan (1996:201-2) sees the upper house—as a democratically elected second chamber—as having political functions beyond that of comparative institutions in the United Kingdom or Canada (who cannot claim the same political mandate). Because of this "mandate for scrutiny", coupled with the impact of disciplined parties, the Senate is a chamber with relative liberty to examine issues in committee that may not be favoured by the Government party, and a key point of political conflict over both Government action (the Executive) and its proposed legislation. Thus, the Senate, in not having a simple Government majority because of its method of election, is a forum in which political debate can be genuinely intense. With specific regards to the activities of committees of the Senate, this political function can also be identified in the way that legislation is reviewed within committees, depending on the level of political "heat" attached to the issue (McNaughton, 1991:34,39–40). Thus, prior to 1999 the low level of Commonwealth attention to the issue reduced (and contained) the level of political disputation within the Community Standards and Information Technologies Committees (Reynolds, interview: 9/3/99)\(^{394}\), this was clearly not the case in 1999. While, as Paxman (1998:90) argues, some committee members may have wished to "keep their powder dry" and restrain partisan debate in the committee process, the low level of political attention and priority afforded the issue (Bishop, interview: 30/6/99) meant that Committee process was likely to be one of the few avenues for a robust debate on the topic. Therefore, while many of the Senate inquiries used as data sources may reflect the lower level of political tensions characterised by Sabatier and Jenkins-Smith’s view of their congressional cousins, the hostilities between the disciplined parties in the Senate Committee process was strongly evident in 1999\(^{395}\). Overall, this means that as sources for data, the Senate Committees are not, in the strict use of the term, methodologically reliable, and are subject to considerable variation in their operation (and therefore data output) over time.

The significance of this finding for a researcher wishing to utilise Committee submissions is complex, and may be difficult to gauge. Generally, we can ascertain that interest groups and individuals have deliberately altered the content of the submissions in line with their perceptions of political events of the time and their assessments of the fora with which they engaged. As Tom Worthington observed in Chapter Seven, some groups’ submissions were tailored to meet the expectations of those watching and constituting the fora (not always the same people). However, this would only be true of

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\(^{394}\) However, the level of external tensions in 1996 (from the NSW debate) may have flowed over into committee / inquiries undertaken at different levels in the political system. This view is consistent with the degree of interaction by members of the policy subsystem between the two levels of the federal structure.

\(^{395}\) However, it is likely that, given the Labor Party’s conflicting views on the topic, debate over the legislation was largely contained to the Committee process. Had Kate Lundy been given the role of leading the opposition debate in the Senate Chamber’s Committee of the Whole, there might have been a tendency for her to “keep her powder dry” for this forum, but as the Shadow Cabinet appeared not to be strongly backing her views on the issue, the Committee served as the focus for the most vigorous political debate.
those organisations or individuals with a direct connection to government or the bureaucracy, and who are willing to accept the "informal hints" of Ministerial staffers and bureaucrats. This "tailoring", presumably, would not be directly at odds with the submitter's preferred policy position, but within some acceptable range of variation or emphasis. For others without the personal contact of the close-knit Canberra community (which included many of the groups, from each of the advocacy coalitions), this direct submission shaping was not available: either negating the impact of political "temperature" on the content of their submissions, or causing them to tailor their submissions based on their own interpretation of the likelihood of their proposals. For some, however, the very nature of the fora was hostile, regardless of the political temperature of the online content debate or their position in the political spectra (Fiona Patten, for example, saw the inquiries as "incredibly frightening processes"; interview: 9/2/99; and some of the online libertarians were opposed not only to Government intervention in the online environment, but the whole concept of the state considering the issue). Others, however, put their positions consistently, irrespective of events of the day (Marian Smith, for example, taking the Social Issues Committee and the truth of the Bible as her guides to action; interview: 22/2/99), and regardless of their lack of palatability to policy makers. What this means for the researcher, therefore, is the necessity of accepting that the data collection process does not represent the "individual true value" of individuals or groups in the policy subsystem. At different points of time, for different groups and individuals, variations arise based on a wide range of factors (hint dropping, perceptions of the forum, perceptions of the acceptability of particular views, perceptions of the chance of success / standing of the submitter, etc.). While it is unlikely that groups or individuals might present to these forums material to which are they significantly opposed (they might, however, choose not to submit to fora they see as too hostile or unresponsive396), value positions taken from this material must be seen to fall within a range of acceptable positions, increasing the variation among cluster members.

(III) Missing Data Problems
The final limitation of the ACF highlighted by its empirical application is found in the problem of missing data within the sample obtained. This problem is caused by two factors: First, in using pre-existing documentary evidence that was constructed for a specific political purpose (presentation to Committee or Government investigation / consultation / inquiry), the submissions do not always contain the type of detailed value articulation ideal for the clustering of advocacy coalitions. This limitation was evident in the near complete absence of any detailed discussion by submitters to Senate hearings of their underlying philosophic outlook on the world, the nature of humanity, or their relative importance measures ([a1–a3] on the coding frame listed in Appendix 6.3). Where deep core values were articulated, they were explicitly addressed to specific elements of the submitter's core concerns, such as their view of the predominant importance of the protection of children, or the absolute value of freedom of speech. Where these were expressed, the submissions were not comprehensive, with very few taking the time to compare the relative importance of child protection over free speech (for example). Thus, where a purposive survey instrument could have included these measures in a directly comparative manner, reliance on committee testimony and

396 As Alan Wakeley stated (interview: 23/2/99):
"I think probably, in spite of our best efforts to portray ourselves as a sort of a mainstream organisations, not a bunch of loonies worried about ... Playboy-type stuff, I think; despite our best efforts we are still regarded by the industry, the computer users groups and so forth as being out there with the fairies. A fringe group ... clearly I think the computer users groups had the goal of trying to marginalise us in the eyes of the Senate Committee and others ... by the ABA Inquiry there was the feeling we had been marginalised."

With this Wakeley gradually began to see the issue as increasingly more difficult to make headway on, and eventually, pressed by other commitments, moved onto other areas of activity.
submission papers meant the case analysis lacked any substantive data on deep core values and beliefs. This becomes a more serious problem where the theory posited by Sabatier cannot be investigated in practice. For the researcher this means that, where data on deep core values is unavailable, it is not empirically evident what the deep core is, or how these deeply held beliefs impact on the stability or otherwise of groups and individuals in the policy subsystem.

The second cause of the missing data problem is due to the time period over which data is collected. Where the clustering method employed by the ACF is generally very useful, in the way that it allows the analysis of data collected over the life of the case study without the researcher having to be engaged with the process in an ongoing fashion (and therefore lacks the temporal problems associated with interviewing), in the case study it was difficult to establish a coding instrument that was consistently applicable over time. Issues change, especially in areas of formative policy development, where the definition of the policy problem and the range of potential policy responses being articulated is wide (such as the case study applied herein). Missing data, therefore, tended to become problematic where areas of discussion entered and left the policy debate rapidly (such as the applicability of self-regulatory technologies like PICS or the level of technical understanding / competence of government and the bureaucracy). Additionally, as few consultation fora or Senate Committees exhibit the type of free-form information gathering exercises of the early Senate Select Committee into Community Standard Inquiries (in 1995) or the ABA Investigation, the range of material being sort by the Committee, Department, or Agency, affects the comprehensiveness of data gathered (and therefore, that which can be compared). The Department of Communications and the Arts consultation process produced a very limited amount of information from participants (between two and five pages on average), and the NOIE consultation process only included online content within a range of issues under consideration that were beyond the scope of the case study (e-commerce, privacy, etc.). What this means is that, a large amount of missing data problems emerged in investigating the case study, which had to be overcome by using conflation (the use of multiple scales to measure a single variable), variable representation (using a lower or higher order belief as an indicator of the value of a variable), or substitution (from other data sets to complete a statistical profile). Thus, these missing data problems limited the number of sampled groups included in dendrograms (with some groups having too little data to be included), and the specificity of some measures used (for example, the specific assessment of a range of alternative technical and non-technical solutions to the policy problem could not be utilised, rather general measures of "value of technical solutions" and "value of non-technical solutions" were the greatest level of specificity the data sets could be applied). Overall, the problem of missing data that resulted from the nature of data sources and / or the acceptability over time of coding instruments can be seen to limit the specificity of data collected, the depth of values analysed, and the comparative value of the various fora used to collect data (free-form versus highly politicised Senate Committees – specific versus general Departmental consultation processes).

Generally, this missing data problem has not been highlighted to date because of the limited application of the full empirical methodology by researchers using the ACF. As a shared framework applied by a range of researchers, the framework has been applied as a heuristic and explanatory tool for a wide range of case studies (Oil and Gas Policy, Heintz, 1988; Canadian Education Policy, Mawhinney, 1993; Airline Deregulation, Brown and Stewart, 1993, Communication Policy, Barke, 1993; Canadian Forest Politics, Lertzman, Rayer, and Wilson, 1996; Water Politics, Munro, 1993, Ellison, 1998; Japanese Smoking Policy, Sato, 1999, etc.). However, the application of Sabatier and Jenkins-Smith's explicit empirical approach (and, therefore, their theoretical and methodological development of the approach) has been largely confined to homogeneous resource supply / scarcity issues (the Lake Tahoe study of water quality and the US Outer Continental Shelf leasing debate). These two case studies are similar
in their attention to the development / environmental divide underlying the political debate, and, while the cases have a basis in the relatively abstract deep core division between business interests and environmentalists, they do contain a wide range of technical and quasi-scientific areas for debate, upon which competing coalitions could focus their attention (economic measures of oil output, environmental impact studies, water quality measures, land prices, etc.). While this combination of deep core dispute and policy core / secondary aspect debate through technical measures is common place in political disputation, it is not a universal experience. As the case study shows, while it appears clear that deep core belief systems were in dispute between members of the two distinctly divided coalitions (no regulation and pro-regulation), the existence of a substantial middle ground coalition showed this dispute was not exclusive. Additionally, in the life of the case study, very little “scientific” assessment was offered, with debate largely based on assertion (the existence of an actual problem, the scope of the problem, the capacity of technical or non-technical to solve the problem, etc.). Where some degree of technical expertise was solicited into the policy debate (such as the CSIRO’s study of blocking technologies) its effective domination of the policy debate was extremely limited, and the impact of the report (and subsequent appearance before the 1999 Senate Committee Hearing by one of its authors) did little to sway the views of subsystem members—nor did it establish a “shared frame of reference” upon which technical debate could be conducted.

It is clear that, from the outset of the case study, the premise upon which the political debate was constructed was highly questionable. While, in 1999, members of the Government continually attested to community concern over pornographic, sexually violent and paedophilic material online (stressing its direct and indirect effects on children\textsuperscript{397}), no reliable statistical evidence was ever presented related to the amount of material available in any of these categories\textsuperscript{398}. When evidence was released during this debate (such as the survey data produced by the online research firm www.consult; Marzbani, 1999), it showed limited support for government censorship among Internet users—a measure of concern, rather than that of an actual social problem. Given the absence of concrete technical points of disputation (albeit masking a deeper value conflict), the case study does not match those undertaken by Sabatier or Jenkins-Smith, explaining some of the limitations discovered through missing data in applying the ACF to the Australian case. While this problem would be overcome using different cases of a more technical bent (or those with more established policy implementation processes upon which measures of success or failure would be a source of political disputation\textsuperscript{399}), what this finding shows is that, given difficulties obtaining information on core values, where limited technical debate occurs, missing data errors are highly likely to limit the scope and breadth of analysis using the ACF as promoted by Sabatier and Jenkins-Smith. What this finding does show, however, is the extent to which debate was specifically over elements of implementable policy (“government action programs”) rather than less well-defined value positions (\textit{i.e.} moral or belief assertions).

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\textsuperscript{397}An example of this being Senator Alston’s article in the \textit{Australian} (1999b:55) “\textit{Regulation is not censorship}” where the Senator linked community concerns about online content to the issue of child protection from “makers of snuff movies, paedophiles, drug pushers and other offensive or disturbing material”.

\textsuperscript{398}The Australian Bureau of Statistics (1998) reported in 1998 that the two major impediments to uptake of the Internet where cost (30%) and lack of interest (29%).

\textsuperscript{399}The next ten years of this case study is likely to provide a richer amount of evidence upon which analytical debate will occur. This would be developed by the ABA as part of its implementation process, overseen by the research component of the “NetAlert” and IIA Code of Practice Administration Council.
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Given the widespread use of the interview method in social research, it is surprisingly rare to encounter research based on the method that restates and reassesses the value of the interview. As highlighted in Chapter Four, interviewing does have a wide range of advantages (flexibility, depth of data gathering, etc.) that explain its popularity, but it also retains a range of distinct and general limitations (memory and interviewer effects, limits of practical scope, cost, transcription limitations, contagion bias, etc.) that are seldom reiterated in the course of research exposition. In the development of the case study analysis these limitations were apparent, with problems of memory affecting some participants' accounts (especially those attempting to recall events and activities that occurred over a decade previously), and the difficulty of some interviewees recalling specifics of events, or the temporal sequence in which some events occurred (when compared with evidence presented by secondary sources from the time). Additionally, given the range of participants, and the practical limitations of engaging wholesale in the interviewing process (especially in a comparative study), the method was limited in the degree to which cross-verification could be practically undertaken (the number of interviewees that would be included in the sample and the actual existence of interviewees able to cross-verify the testimony of some events). This final point is highlighted in the total number of interviews undertaken (thirty-six).

The absence of detailed post hoc assessment of the method in political science / public policy scholarship can be seen to be the result of two factors: First, as a staple of the research community, the limitations of the interview approach are genuine assumptions, in that, they are no longer discussed in any detail (or to any extent), if at all. This is both a function of the wide scale familiarity of both the research and general community of the method (using and experiencing the method), and, possibly because the method lacks an initial detailed assessment and articulation of its manner of application (such as that which can be seen in Sabatier's discussion of the ACF's method, an approach described by deLeon (1994:117) as displaying "moxie"). Thus, the lack of critical scrutiny of the interview can be seen as a result of the lack of explicit articulation of the method's use in establishing research projects. This last problem underlies the difficulty of comparing the two research approaches utilised by Sabatier and Rhodes, in that the ACF requires explicit justification and explanation that is often not demanded of Rhodes's methodological approach. However, in honestly comparing the two approaches, it is important to see how both research methods cope with questions such as the amount of data collected from each sample element (depth) and the overall percentage of the sample universe selected for data collection (breadth), and the validity and reliability of the data collection instruments. This point can be underlined by the differences of depth and breadth of the approaches, in that, while Rhodes's approach produced, on average, an hours taped discussion per sample element, and the ACF produced a comparatively small statistical profile (a significant depth of data collection by Rhodes's method), the breadth of the ACF's application to the case study was far greater than that of Rhodes's approach: sampling over nineteen percent of the sample universe.

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400 As Burgess (1984) notes sociology has been referred to as "the science of the interview".
401 This problem is particularly acute when attempting to determine, for example, the order in which points were discussed in a series of meetings, or in the process of amendment of legislation (what amendments were developed at particular points in time, etc.).
402 By the researcher presenting critique of the own interview-based methodology. Critiques of research studies by other researchers does appear, where the findings are questioned based on a negative assessment of the conduct of the research methodology (for example see Dempsey's (1996) critique of defining research into insider trading problems in the share trading market).
403 Interestingly even Rhodes himself has difficulties publishing methodological appendices for his work, with publishers rejecting the idea (correspondence: 11/8/97).
404 The amount of information varied greatly, however, with some of the telephone, online, and email interviews being rather brief, while others were extensive discussions.
compared to less than three percent of Rhodes's (only slightly larger) sample universe. Thus, in presenting a detailed critique of the limits of the ACF based on sampling limitations and the problems of missing data, it is important to highlight the vastly smaller sample available for the interview method, a finding, which can be seen, in crude terms, to cast doubt on the generalisability of the interview method and its capacity realistically to claim substantive cross-verification.

Additionally, a second explanation for the lack of detailed assessment of the research methodology is that any such assessment must tend towards a personal critique. As the standard norms of the interview process attempt to depersonalise the process, researchers have tended to over emphasise the separation of the interviewer from the method (Neuman, 1994:247). Thus, critiquing the approach is both personally revealing, and there is difficulty separating interviewer effects from general methodological limitations. This problem results from the method's reliance upon the interviewer as instrument, making the method and the researcher (i.e. the possibility that the interviewer might have poor skills in undertaking the method) inseparable in any post hoc evaluation of the method. Consequently, the reader must—to some extent—consider what elements of any methodological critique of the interview can be attributed to the methodology and what to the interviewer themselves. Overall, however, the core criticism of the method, as determined from application to the case study, lies in its inability to reach some key participants in the political process and the limited amount of information some types of respondents were free to provide. These limitations are fundamentally caused by the nature of the interview method, and the characteristics of the interviewer himself.

(I) Missing Data: The Power Imbalance of Interviewing

As a research methodology applied using a deliberative sampling method, the interview has a more sophisticated sampling method than that of the ACF. As such, the focus on the elite interview is on finding and interviewing those individuals who have particular insight or influence on the policy-making process (either as participants or well-placed observers of it). This was undertaken through the application of an initial sample based on the case study material of Chapter Five, combined with referral (snowball) sampling, where interviewees suggested additional individuals of import in the process (bounded, however, by the practical limitations of the number of interviews able to be undertaken). The advantage of this approach was the capacity to reach individuals of key influence that were absent from the ACF sampling universe (just under half of the interviewees, as listed in Appendix 7.2, were not included in the ACF sample). Thus, while the ACF has previously been criticised for failing to include key participants in the political process (such as Ministers and their Advisers, some Departments and Agencies, etc.), the interview method used managed to capture a wider range of key decision makers and past sovereigns such as Labor Ministers, members of the Senate Select Committees on Community Standards, et al. and Information Technology, and Ministerial Advisers (Nick Grono, Carina Chapman, and Debra Richards). These interviews

405 Neuman's text is an excellent example of this. In his section on "The Role of the Interviewer", he states:

Survey interviewers are nonjudgemental and do not reveal their opinions, verbally or nonverbally ... If a respondent asks for the interviewer's opinion, she politely redirects the respondent and indicates such questions are inappropriate ... Likewise, if the respondent gives a shocking answer ... the interviewer does not show shock, surprise, or disdain but treats the answer in a matter-of-fact manner. This approach reflects the aim of the interview to limit the "interviewer effect" by minimising their human responses to the encouragement of whatever response the respondent has to give.

406 Mark Bishop; Carina Chapman; Jeannie Ferris; Harry Gibbs; David Goldstein; Brian Harradine; Terry Harvey; Gary Humphries; Michael Lavarch; Michael Lee; Kate Lundy; Margaret Reynolds; Debra Richards; Natasha Stott Despoja; John Tierney; Monika Tomasek.
provided highly interesting, insightful, and detailed views of the inside processes of policy making and the perceptions of the issue within the institutional structures of governance, which could be contrasted to that presented by the various interest groups included in the sample.

These valuable insights facilitated by the interview method need to contrasted with some limitations encountered in attempting to extend the scope of the sample. In particular, the absence of Coalition Government Ministers Daryl Williams and Richard Alston are obvious failures of the research project, as is the absence of the NSW Attorney-General Jeff Shaw. These absences, however, are not difficult to explain. Because of their workloads, Government Ministers are limited in the range of minor interviews they could engage in looking to maximise their engagement with researchers to those with immediate political payoffs or who cannot be avoided because of their personal clout (Weller and Grattan, 1981:166–75). Additionally, for Attorney-General Shaw, the prospect of reiterating a failed policy experiment was possibly an additional factor in rejecting the interview request. Obviously, for Government Ministers, the prospect of spending time on an interview with a research student (as opposed to an academic who may have a public profile as an expert commentator or publisher of analysis of Government policy) discussing in detail a "second or third order issue" was unlikely, while former Ministers and currently serving Shadow Ministers (without the workloads of running Departments) were far more accommodating. This finding is not particularly surprising, as Tiffen (1989:39) observed, even journalists (who have a complex power-dependency with Ministers) have difficulty getting interviews from Ministers, and are therefore prone to look to the Shadow Cabinet as accessible sources of information and—as conduits of dissatisfied elements of the bureaucracy—leaks.

(II) Missing Data: The Frank and the Fearful
As has been highlighted, the accessibility of key public servants and political advisers for interviewing has been important in limiting the missing data errors associated with the unavailability of serving Ministers, with a number of these individuals included in the interview sample. Overall, however, it is necessary to state that the quality of information gathered from these interviews is limited in two ways: First, the range of subjects available for discussion was restricted by the respondents; and, Second, where frank and free discussion did take place, this was often based on the explicit recognition that elements of the discussion were to remain in confidence, not to be included in this thesis. By contrast, of those interviewed who were not public servants, ministerial advisers, or formally in these roles, few required these restrictions as the basis for discussion. While some members of the interest groups interviewed were concerned that they would state something that might offend or embarrass the government or members of the public service, these concerns were considerably smaller, and mollified by assurances about the purpose for which interviews were undertaken (scholarship), and the timeliness of the publication of the thesis (mid-2000). For those interviewed who were public employees, these limitations were required because of the political

407 Members of the NSW Attorney-General's Department were quite hostile to the topic, and denied the existence of draft legislation, or that a policy was ever being developed for New South Wales (a rather disingenuous claim given the Minister's press releases of 1996).
408 Marian Simms, for example, is a regular on ABC radio, and John Warhurst publishes regular articles in the Canberra Times.
409 Even given these explicit restrictions, several potential interviewees were not willing to engage in the research (especially at particular points in time when the issue was "too hot"). Others agreed to the interview based on explicit understandings that some issues would not be discussed.
410 Five requesting parts of the interview not be published during the process, and one requesting quotes used in the thesis be verified with them for fear of mis-quotation, representation, or presentation.
sensitivities of the subject and a desire to avoid saying things that might endanger their employment and future prospects. This motivation, however, was not limited to those still working for Government, with many former public servants or advisers seeking to ensure that their comments were unlikely to offend the political sensitivities of the time.

The cause of this lack of candour among former advisers and public servants lies in their career paths. Of the interview sample listed in Appendix 7.2, Debra Richards (Michael Lee's Adviser and former ABA Officer) had become the Executive Director of the Australian Subscription Television and Radio Association, Kaaren Koomen (of the ABA) had moved into the multimedia regulation section of Cable and Wireless Optus, and Carina Chapman (Alston's Ministerial Adviser) was working for Publishing and Broadcasting Limited (Kerry Packer's Organisation) in relation to the transition to digital television broadcasting. Overall, in the analysis of the case study, this clear career path from policy/ regulation into industry was striking. However, the tendency for a "revolving door" between the bureaucracy/key political advisers and the private sector has been commented on by a range of authors, both internationally (Salvemini, 1936:421; Eckert, 1981; Vernon, Spann, and Tobin, 1991:15–7) and domestically (Sekuless, 1984:9; Allen, 1990:103,105,107; Gow and Maher, 1994:119; Makkai and Braithwaite, 1992). Essentially, these authors look to the interface between regulators and industry as a problem for "good government" (i.e. for the ethical work of a democratic bureaucracy, or as a source of weak regulation where public employees believe their future prospects lie with the private sector they are working to "control"). In this case, however, what was clear is that these revolving door relationships served to limit the amount of candour that former public servants and advisers could muster in talking about processes and individuals they were involved with, and with which they have developed ongoing relationships within in their private sector careers. Even those still happy in the public sector were "open to whatever comes up", (Steven Nugent, interview: 29/6/99) and were well aware of the general trend for public servants—especially those with expertise in the regulatory interface between government and the private sector—to have opportunities for advancement in the private sphere. Effectively, what this meant was that, to some degree, self-censorship (especially of comments that could be seen as critical) was actively practiced by these respondents, exacerbating the missing data errors that interviewing these individuals attempted to overcome (i.e. the lack of access to serving Ministers and the missing data problems associated with interview data from current public servants).

**Theoretical Criticisms**

Given the structure and nature of the thesis, it might be considered unusual that a critique of the theoretical position of Rhodes's and Sabatier's models not be substantially larger than the corresponding criticisms of their research methodologies. As can be seen below, however, the range of theoretical criticisms of the models, is comparatively brief. This brevity is based on the view that, as actionable research tools, the essential theoretical limitations of the Advocacy Coalition Framework and Governance are manifested in the way their proponents have taken their theories and converted them into research methodologies. Unsurprisingly, therefore, the core concern of this theoretical criticism is based on the failure of analysis to explain adequately the events surrounding the legislative debate of the case study, either through the relative

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411 Additionally, Marie Kelly, Alston's Adviser on online content issues preceding Chapman (who declined to be interviewed), had moved to the Oracle computer firm.

412 However, Gow and Maher see this as “not a prominent feature of the careers of Australian public servants”.

413 Based on their empirical investigation on the revolving door problem and capture theory, Makkai and Braithwaite (1992:68) see the issue as particularly salient in the way bureaucrats both identify with, and are sympathetic to, the problems of industry.
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deployment of the advocacy coalitions, or the formalised structure of the policy community. This section outlines these theoretical limitations encountered in the application of the research approaches in the Australian political context, leading towards discussion of theoretical and methodological improvements in the next section.

Criticisms of the Advocacy Coalition Framework

Overall, because of the explicit way in which Sabatier and Jenkins-Smith have presented the ACF in recent years—as a shared theory for comparative research and critique—the framework contains a range of testable hypotheses that were outlined in Chapter Three. In taking and reviewing these hypotheses many of the minor concerns and problems of the approach can be addressed and highlighted below. However, an additional criticism needs to be explored, given the notable absences from Sabatier’s research methodology, that is: the problem of identifying the role of key sovereigns with institutional power is presented not simply as a missing data problem, but as a wider limitation based on the ACF’s view of state organs as both fragmented and reactive to the pressure of competing coalition members.

(I) Hypotheses Examined

Taken from figure 3-4 in Chapter Three, the hypotheses restated below are discussed in turn, given the empirical evidence from the case study. Because the case study focused on a particular part of the wider life cycle of policy subsystem (formation and formalisation) of the twelve hypotheses presented by Sabatier and Jenkins-Smith in their 1993 book, four were not been examined herein due to the lack of substantive evidence.

Hypothesis One: On major controversies within a policy subsystem when core beliefs are in dispute, the line up of allies and opponents tends to be rather stable over periods of a decade or so.

While this tended generally to be true, there were some notable exceptions among both the public interest groups (such as the changing views of the IIA with its formalisation and the "alternating" view of the EFA depending on the political climate of the day and internal factors), and the Departments and Agencies engaged in policy development (able freely to express views that were contradictory at particular points in time, but adhering strictly to government policy at other times). This hypothesis can, therefore, be restated as:

Hypothesis One (revised): On major controversies within an established policy subsystem when core beliefs are in dispute, the line up of allies and opponents freely able to express their policy preferences tends to be rather stable over periods of a decade or so.

In restating this hypothesis, the empirical findings of the case study tend to erode the simplicity of the original view via exceptionism. However, in doing so, the theoretical failings highlighted by the empirical analysis are directly addressed. Thus, it becomes important to note which groups are not “free” to express their preferred policy positions, and what an “established policy subsystem” is. For the first exception, many will be readily apparent (public sector organisations bound to articulating government policy, for example), while others will need to be determined by deduction. In the latter case, determining what groups are bound by the “rules of the game” as political insiders (vis-a-vis Rhodes’s approach to policy networks) may be useful in determining which groups are “ginger” (in Kimberley Heitman’s view) and which are not, and also what groups are pursuing “inclusion” as a deliberate guidance instrument / political strategy. Genuine exceptions are interesting phenomena in of themselves, showing either internal inconsistency or a high degree of political flexibility in presenting opinions. However, given the methodological limitations in assessing core beliefs (which should be more inflexible to change over time), this hypothesis is based on the assumption of the presence of core beliefs as characterised by Sabatier’s theory, a theory that has not been falsified by the research (while the case study shed no light on core values.. 204 ..
empirically, the testimonial evidence of Rhodes's analysis supports the view that many individuals competing over core values generally remained consistent in their positions over time\textsuperscript{414}. With regards to the second exception, while this could be argued as a "slippery slope" fallacy (that an established policy subsystem is one in which the line up of opponents and allies is stable over time), it is likely that subsystems become "established" (i.e. permanent) when policy exists in the implementation chain (possibly post-implementation and into the reformulation stage of longevity of the subsystem\textsuperscript{415}).

In the case study the subsystem has a reason for continuance (clustered around a significant policy response by the Federal Government) and with the meat for a continued policy debate (based on the assessment of an implemented policy and the further deployment of guidance instruments by coalition members to reinforce or change this policy). In the case study, therefore, it can be posited that the period post-2000, with the implementation of the \textit{Broadcasting Services Amendment (Online Services) Act 1999}, can be seen as an established subsystem in which the position of players is likely to stabilise\textsuperscript{416} (especially when compared with the policy debate surrounding computer crime, that failed to produce any policy with significant implementation requirements or longevity\textsuperscript{417}).

**Hypothesis Five:** The core (basic attributes) of a governmental action program are unlikely to be changed in the absence of significant perturbations external to the subsystem, that is, changes in socioeconomic conditions, system-wide governing coalitions, or policy outputs from other subsystems.

In looking at evidence from the case study this hypothesis has some potential limitations. While the overall policy proposed (circa 1996), adopted (1997), legislated (1999), and implemented (2000-) can be seen as containing the core attributes of co-regulation based on industry codes of practice developed at a peak level, light government intervention in the marketplace (direct control and technological specificity as to self-regulatory technologies), and limited oversight (devolving oversight down to the industry body / agency level), the presence of the legislative debate between the light regulation coalition and those favouring the stronger elements contained within the proposed legislation (i.e. mandatory overseas content filtering) mean that there existed a challenge (if not a change) to the dominance of the light regulation coalition in policy making. If the impact of the GST and Telstra privatisation debates in other policy subsystems (via the position of Senator Harradine) can be seen as the motivation for this policy change, then the backdown by the Government is not explained. Overall, the hypothesis is valid, though its general validity is brought into question by the events of the case study.

**Hypothesis Six:** Policy-oriented learning across belief systems is most likely when there is an intermediate level of informed conflict between the two. In such a situation, it is likely that:

1. Each coalition has the technical resources to engage in such a debate; and
2. The conflict be between secondary aspects of one belief system and core elements of the other or, alternatively, between important secondary aspects of the two belief systems.

\footnote{\textsuperscript{414}With some "tinkering" to core belief's through near core changes (such as Heitman's view that members of the EFA Executive redefined the conception of "free speech" based on their views of the export of the American first amendment right).}

\footnote{\textsuperscript{415}A view that is consistent with the ten year plus time frame of Sabatier.}

\footnote{\textsuperscript{416}However, as a subsystem subject to wide scale exogenous shocks (technological and market change), this stability may by limited.}

\footnote{\textsuperscript{417}This finding is interesting in itself and would appear to require more research to fully address the implications of policy debates over areas where limited formal implementation occurs.}
This hypothesis appears valid, in that the level of policy-oriented learning was high in periods of limited conflict where fora existed for the general sharing of technical knowledge (to some extent the early Senate Select Committees were dominated by the search for technical information, as was the ABA investigation). As few groups expended significant resources to develop technical understanding of the policy area beyond their lay or professional experiences (with the exception of the ABA, NOIE, and the Department of Communications and the Arts as part of the dominance of their Minister over the decision-making process), the recurring tendency for significant periods of conflict within the subsystem (1996, 1999) tended to neutralise the value of technical knowledge in the policy debate. As debate tended to be polarised between the technical argument that effective regulation was impossible and the position that something needed to be done to protect children from morally harmful content and / or physical preditation, the conflict between these positions meant the level of policy learning displayed in the analytical debate was generally non-existent or at most very limited.

Hypothesis Seven: Problems for which accepted quantitative data and theory exist are more conducive to policy-oriented learning than those in which data and theory are generally qualitative, quite subjective, or altogether lacking.

This hypothesis would appear correct, but only through observation of the negative case. What we can see in this case study, is the vagueness of what Schulman (1988:263) termed "idea sets" or conceptions about policies "based on a set of concepts, axioms, and deductive inferences directed toward the analysis of a public problem" (265). For Schulman, policy ideas can be described in a similar way to Sabatier's belief system structure (comprised of core and secondary elements to actionalise the causal theory of the core) and could be classified into a "categorisation" or matrix, as illustrated in figure 8-2.

Figure 8-2: Policy Idea Matrix*

<table>
<thead>
<tr>
<th>Deductive Linkages</th>
<th>Loose</th>
<th>Tight</th>
</tr>
</thead>
<tbody>
<tr>
<td>Definitions or Vague</td>
<td>Maxims; aphorisms (&quot;poverty is an educational problem&quot;)</td>
<td>Policy analysis; risk assessment (cost / benefit; deterrence analysis)</td>
</tr>
<tr>
<td>Core Concepts Precise</td>
<td>Categorisations (budgeting; personnel categories)</td>
<td>Mathematical models (mathematical model of the ozone layer)</td>
</tr>
</tbody>
</table>

source: Schulman, 1988:266 (*annotated)

What this figure helps to illustrate is how policy idea sets can be classified based on the closeness of "if x then y " propositions and the degree of accuracy with which core policy elements (definitions, scope and scale, etc.) can be specified. The tighter the deductive linkages of idea sets and the specificity of problem / policy definitions, the greater the capacity of policy solutions to be developed specifically in line with commonly-agreed views of causality. Where these pre-conditions for "neat" and specialised policy making are absent (as is apparent in the case study) conflict will be high over competing policy responses, both within the policy subsystem and between competing agencies who feel they can respond to the problem. While this view is consistent with Jenkins-Smith and Sabatier's view of the dynamics of learning in formative policy subsystems (as illustrated in figure 6-5 in Chapter Six), its applications to case events post 1998 show that the preconditions outlined by Jenkins-Smith and Sabatier for an ongoing research policy with weak coercion (outcome [D] in the continuance part of the flow model) may not apply in the latter life of the policy subsystem. As Schulman points out (in figure 8-2 [µ]), policy
responses can even occur based on vague definitions and loose deductive linkages in the most serious of policy responses: the establishment of massive nuclear arsenals based on the causal theory of nuclear deterrence (i.e. the establishment of sufficient nuclear weapons to ensure, even in the worst case scenario, the capacity to totally annihilate another, similarly armed nation). What this analysis shows is that: (a) policy making in [µ] is both possible, and need not form to outcome [D] in figure 6-5, and (b) that this response, because of its loose deductive linkages and vague definitions, can be subject to sufficient drift over time (because of the lack of rigour "anchoring" the policy).

Hypothesis Eight: Problems involving natural systems are more conducive to policy-oriented learning than those involving purely social or political systems because in the former many of the critical variables are not themselves active strategists and controlled experimentation is more feasible.

This hypothesis would appear correct, for largely the same reasons offered for hypothesis seven. What is interesting to note is that, because the online content issue was essentially about social and moral responses to technological systems, the overall issue was excessively difficult to quantify in the terms offered by natural scientists (what, for example is a "measure of community concern"? or a "community standard"? etc.). Overall, the level of acceptability to policy-learning based on the "closeness" or not of a policy debate to the natural sciences is a continuum. This continuum is grounded on the acceptance of elements of causal theory by participants, and (more importantly) the degree to which elements of the policy as a "good" are agreed between participants at the deep and near core levels. Thus, while debate about environmental degradation, for example, is a complex scientific argument, the lack of value consensus between environmentalists and forest industry moves debate away from the end point of the policy debate continuum (of the "pure" natural sciences) in which policy-oriented learning is most likely to occur where "scientific" information is deployed rhetorically and strategically, rather than purely informatively. This view is supported by the work of Croissant and Restivo (1995:39) who see science essentially as a social problem in the way that technological change impacts on the social and work life of the community.

Hypothesis Nine: Policy-oriented learning across belief systems is most likely when there exists a forum that is:
1. Prestigious enough to force professionals from different coalitions to participate; and
2. Dominated by professional norms.

This hypothesis would appear correct, again only through observation of the negative case. In the case study no such fora existed. However, with the establishment of an implementable policy, with some benchmarks being established by the ABA to measure the effectiveness or otherwise of the policy (at least in terms of the number of complaints to resolutions, turn around time of classification, number of prosecutions, budgetary aspects of administering the policy, etc.), there appears scope for this form of learning to occur post 2000.

Hypothesis Eleven: Within a coalition, administrative agencies will usually advocate more centrist positions than their interest-group allies.

In reviewing the dendrograms presented in Chapter Six, this hypothesis appears not to be valid. While more than half of the administrative agencies or government departments figured took centrist positions in coalitions, during 1998 and 1999 this was not the case, with the National Office of the Information Economy and Australian Broadcasting Authority on the very edge of their respective coalitions. Given the

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418 A case study he freely admits to being "extreme".
formative nature of the policy subsystem, however, and the previously determined inability of these organisations during 1999 to reflect positions other than (broadly) government policy at the time, the data collection instrument and bias generated by the research methodology outlined in the previous section (via the sampling limitations), it is possible that this hypothesis might not be invalid. Certainly the position of Departments (Communications and the Attorney-General's) prior to the debate of 1998–9 have a greater tendency to reflect more centrist positions. Overall, this hypothesis is not reliably testable using the available data sets.

**Hypothesis Twelve**: Even when the accumulation of technical information does not change the views of the opposing coalition, it can have important impacts on policy—at least in the short term—by altering the views of policy brokers or other important governmental officials.

Before this final hypothesis can be examined, we need to get a better understanding of what Sabatier means when he talks about "policy brokers". Sabatier's definition of policy brokers is (1993:18–9; 27) a "group of actors": whose principle concern is to find some reasonable compromise that will reduce intense conflict ... This is a traditional function of some elected officials (particularly chief executives) and, in some European countries, like Britain and France, of high civil servants. Sabatier goes on to say that this role can be played by a range of actors (including the courts), and that the roles of "broker" and policy advocate (i.e. the normal, unconstrained advancement of policy preferences of advocacy coalition members) are indistinct, with many occupying positions within different coalitions, but overriding concerns with limiting conflict. Thus, to place this role in Rhodes's conception, these players are constrained by either a cultural or network norm to play a brokerage strategy, even where this might undermine the extent of political "wins" for their coalition. For brokers, therefore, compromise, as well as trust, can be seen as an important "rule of the game". In terms of Sabatier's value system, comprise between coalitions can be seen as a more important value than outright victory indicating preference for peace in policy subsystems, or some other value structure that does not emphasis pure zero-sum politicking (emphasis on consociational forms of government, etc.). However, while the brokerage role is well established in the ACF model, Sabatier and Jenkins-Smith (1993:231–2) raise a number of questions about these actors, stating in that these actors need more empirical study:

*Under what circumstances are successful policy brokers likely to emerge? What are the institutional affiliations of such brokers and what skills do they tend to posses?*.

What this means, importantly, is that brokers are not always apparent, and, in looking to the ACF for exposition of cases where successful brokerage has occurred (where conflict has been deliberately reduced), how does the theory inform practice of "good government" (i.e. government without conflict through policy brokerage)? To examine these questions we need a better understanding of the what a policy broker is.

In examining the hypothesis, however, it is difficult to apply Sabatier's definition effectively to the case study. While it is true, as indicated by Sabatier and Jenkins-Smith, that policy subsystems need not necessarily contain brokers (and is, in fact, interesting in of itself if they do not), it is informative to examine what attempts at brokerage occurred in the case analysis. To do this we can add a new hypothesis:

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419 Thus, while Sabatier's conception of agency positions as tending towards median positions within coalitions can be interpreted as an implicit use of media voter theory in a rational choice perspective, the role of policy brokers shows that the ACF does not assume either utility maximisation or utilitarian ethics as underlying human behaviour.
Hypothesis Thirteen: The capacity to engage in policy brokerage is based on the expenditure of the resources of either legitimacy, authority, or facilitation.

This means that brokerage is not simply an activity that can be engaged in by subsystem members, but that to broker a policy compromise the policy broker must have (Christoph, 1975:34–5): either the legitimacy to do so (an elected position, moral superiority, "status", etc.)

Christoph notes in his review of the position of senior British bureaucrats in negotiating with interest groups that (34):

because all departments' actions go forth in the name of the minister and he alone is supposedly accountable for them in the world outside, civil servants cannot be summoned by parliament or any outside body to defend their views and activities ... Their anonymity not only leaves them considerable freedom in their dealings with pressure groups since they cannot be tagged with responsibility for policies considered obnoxious in the eyes of dissatisfied interests.

Because of this, he sees these individuals (as does Sabatier reading this volume) as having a role as brokers. This view, however, assumes that interests see bureaucrats under the doctrine of impartiality, which is not universally the case (especially to "outsider" groups unfamiliar with "the rules of the game").

From the data presented in Chapters Six and Seven, therefore, we can posit and explore a number of propositions regarding brokerage in our case study:

1. Senate Select Committees or Richard Alston acted as policy brokers: While the Senate Committees have been identified as arenas for policy learning and debate (having the resources to act as a facilitator of negotiation between competing coalitions), the findings of these Committees (especially circa 1995–6) highlight their role in bringing the online content issue from a concern of some groups and individuals, into the position of a public problem to be addressed (placing it on the agenda). In consistently supporting the views of the pro-regulation coalition (a coalition that had limited technical or financial resources to engage in the policy debate), the Committee's overall role before the late 1990s was that of an advocate, rather than a broker, of the policy that government proactively regulate online services. Furthermore, the proposition that Minister for Communications was acting as a policy broker and mediating a position between the light and high coalitions in the legislative debate of 1999 also fails on the "reduction of conflict" test. This "legislator as policy broker" role is identified in Sato's 1999 evaluation of Japanese smoking policy, where the Diet was seen as mediating the position of the pro- and anti-smoking lobbies competing over fundamental elements of their core belief systems. However, in the online content debate, the Minster's purposive role in "reigniting" a relatively dormant policy debate not only negates him as a broker, but his use of media to promote the dangers of the online environment significantly cast him more as an agitator or advocate, very much in the same mould as Alan Wakeley's moral entrepeneuralism of 1995–6;

2. The ABA acted as policy broker: The ABA Investigation served as a forum in which a wide range of policy subsystem members (and newly activating organisations and individuals) could express their opinions and have these presented in the Authority's final report (Kaaren Kooman's evidence stressing her emphasis on general consultation). Given the emergence of the Investigation process at the same time as
the NSW legislation debate, we can see that the process helped to reduce the overall level of tension within the policy subsystem (heralding the relative peace of the period 1997–8). Overall, however, while the roles of broker and advocate are indistinct, the ABA report was not a negotiated settlement between competing coalitions, but served to reiterate and reconstitute the overall policy direction presented by the then Minister, with support from authoritative technical and industry groups. While tensions following the report were lower, this was the result of a clear victory to the light regulation coalition, with the ABA rejecting the no regulation coalition's view by supporting co-regulation, while also rejecting the call for stronger regulation supported by the pro- and high regulation coalitions. While this can be seen to have lead to some mutual adjustment (mainly by the IIA who moved to mirror the key views of the ABA and present themselves as the obvious choice for co-regulator), it was largely a declaration by the ABA of which coalition it supported in the subsystem. For the other coalitions, they were not so much accommodated, as consigned to develop new strategies with which to assail the, now dominant, light regulation coalition;

3. **The Department of Communications / NOIE acted as policy brokers**: While the position of the Department and NOIE tend to vary depending on a range of temporal factors (and the related methodological limitations), the consultation role undertaken by these organisations tend to match that of the ABA. Without a greater level of access to bureaucrats through more candid interviewing, it is difficult to assert greater details, however it appears that the general position of the light regulation supported by the Department and NOIE remained the key areas for consultation with interested groups circa 1997. Given this was essentially Government policy until 1999, the capacity for these organisations to engaged in brokerage appears somewhat limited;

4. **Carina Chapman acted as policy broker**: As indicated in Chapter Seven, Chapman saw her position in the policy process as in the centre of policy development, with access and authority (borrowed from the Minister's legitimacy). As such, Chapman was involved in direct policy bargaining and negotiation. What is clear, however, is that the range of this negotiation was contained to the Government's partner groups in the regulatory schema (the IIA), and significant industry groups (such as the Australian Information Industry Association). Regardless of this "middle" position, Chapman was engaged largely in mediating the legislative response with key members of the light regulation coalition, while deliberately ignoring other coalitions (such as the EFA).

Given these examples of brokerage, there is an obvious absence of a significant brokerage role in the case study. What we can see, however, is that between Government and some of their coalition allies, significant, ongoing "policy mediation" (as opposed to brokerage) can be seen. This is apparent both on the level of private meetings (such as that held between Chapman, the Minister, and members of the IIA in 1999 over the content of the *Broadcasting Services Amendment (online services) Bill*; Department of Communications, Information Technology and the Arts, 1999a), and in the way consultations were structured to limit discussion with a wider policy framework favourable to the dominant coalition (such as the Department of Communications and the Arts (DoCA) consultation process in 1997). While senior bureaucrats from DoCA might have wished for a broader role in reaching subsystem consensus, they were constrained by their political position. Therefore, we need to amend our most resent hypothesis to:

**Hypothesis Thirteen (revised)**: The capacity to engage in policy brokerage is based on the expenditure of the resources of either legitimacy, authority, or facilitation, and the independence to engage as an "honest" broker.
Thus, given that his case study displays the preconditions for limited policy brokerage, we can posit another hypothesis for future research into subsystems displaying the rise of policy brokers:

**Hypothesis Fourteen:** Significant brokerage is most likely to occur when:
1. Significant levels of conflict occur which may threaten the stability of the subsystem itself (i.e. spread conflict into the wider political system); or
2. Moderate levels of conflict occur over a policy issue with significant importance to the core values of the systemic governing coalition; or
3. Moderate levels of conflict occur over a policy issue with likelihood to impact directly on the relatively stable system parameters.

(II) Sovereigns in the ACF: Decision Makers or Pluralistic Arbiters?

As highlighted in the methodological critique, the position of sovereigns in the ACF is both understated and lacks the capacity for thorough investigation. Thus, the core criticism of the framework in application to the Australian political environment is that the model lacks sympathy for the dynamics of institutionalist politics at the parliamentary level, clearly important in the case study. That Sabatier's model is lacking this dimension may not be surprising, given his views about the nature of Realpolitik drawn from the United States. As stated in Chapter Three, Sabatier essentially defines sovereigns as "those who make decisions", a definition of the core element of the political process which is a neither informative nor particularly useful. Thus, coalitions pressure and employ political strategies (guidance instruments) aimed at altering the decisions taken by these "decision takers". By implication of their absence in research methodology, sovereigns largely become passive actors, supporting the position of the "dominant coalition". The model, as articulated in figure 3-1, constrains parliamentary politics to either changes in systemic governing coalition (i.e. in Sabatier's model, "critical elections" are those that effect the entire nature of the ruling party in Government, but are constrained by the divide between the US legislature and Executive, stabilising these events) or the capacity for coalitions to "control" individual legislators and other decision makers to get a majority / strategic sovereigns necessary to effect policy formulation and implementation (i.e. they become the dominant coalition). In the United States, sudden, simultaneous changes in both the Executive and Legislature are inclined to be rare, with the tendency for elections to alternate control of different institutions between both parties (limiting the "winner take all" effect of electoral change). In this context, it must be remembered that U.S. parties lack the "cohesiveness" (the party discipline) of their British (Punnett, 1968:25–6) or Australian (Parkin, Summers, and Woodward, 1994:122; Jaensch, 1983) cousins (Sorauf, 1970:131; Neustadt, 1989:468; Klingemann, et al., 1994:136–7). Change in the United States is, therefore, not the result of the "reform wave", electoral "mandate", or ideological shift by party machines, but based on "strategies of persuasion and modification" (Burstein and Bricher, 1997:136) to influence the individual voting behaviour of congressional legislators.

In attempting to identify the range of "key sovereigns" in the ACF who "make decisions", Sabatier is not very helpful. While conversion through guidance instruments of sovereigns is a means of getting support for the coalition's position, the large number of independent sovereigns reduces the value of each conversion. In this case, the role of the U.S. President as "chief legislator" (Vanderoef, 1970:189) does not have the same connotation of the role of the Prime Minister in Australia (because of the integration of

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421 A limitation that is also seen in the role of the Australian Senate in promoting minor parties, loose coalitions, and individuals into the balance of power.
422 Klingemann, et al. saw this as the result of the institutional fragmentation of the U.S. political system, where different parts of the one "party machine" were effectively de-coupled to engaged in political activity in a range of levels (federally) and issues.
Australia's Online Censorship Regime

powers; Walles, 1988:77). In the United States Presidential support for legislation is only the beginning of a long process of negotiation and persuasion of individual legislators, where the Australian case allows for, at a minimum, the guarantee of support from the House of Representatives (and for many States without upper houses, a guarantee the legislation, at least, can be passed)\textsuperscript{423}. Thus, in application to the Australian political system the ACF attempts to uphold two contradictory propositions: First, in including the federal component of policy making within a wider multiplicity of access and decision points, the ACF stresses a diffusion of power throughout the policy subsystem (essentially a competitive model of group politics based on reformed views of the role of institutions as arenas for conflict and highlighting the nature of competitive governmental agencies). Thus, advocacy coalitions are successful in realising their aims in the policy process by co-opting more implementing agencies than their rivals. Second, the framework undermines this systemic complexity through the level of abstraction presented by the framework (at the meso-level of coalition action), and by relegating sovereigns to a special position outside of coalitions (both in the model and in the sampling limits of the research methodology). In this way the ACF shares many of the problems of Latham's approach to government as an "arbiter" of competitive group pressure while simultaneously giving government organs ("officiality") independence from the monist state (if the state is not one, how can it have agency?). This undermines the depth of the multiplicity of access points and inter-sovereign competition with an almost "pure" pluralistic conceptualisation of sovereigns weighing up the arguments and reacting to strategies of coalitions. What is clear, therefore, is that the ACF's application to the Australian environment must conceptualise some institutional players (such as Ministers) as having greater direct control over the process of policy making (especially where legislation is concerned) and over organisations hierarchically bound to them (implementing agencies), backed by the appreciation of party affiliation and discipline and a recognition of these actors as individuals of free will.

Criticisms of Governance

While Rhodes's shared theory does not include the same explicitness in presenting its research tools for comparative evaluation as the ACF's hypotheses, the complexity to which Rhodes's approach has grown (from a theory of central-local relations, to a network model, to what is effectively a theory of the nature of the state, as "hollow") gives the researcher a range of theoretical elements for analysis. Overall, however, the focus of the criticisms in this section stem from the core finding of the case analysis: why does Governance not explain the Broadcasting Services Amendment (Online Services) Act 1999? In examining this problem we explore three theoretical limitations of the theory of Governance: First, that in conceptualising the state as comprised of independent networks, the model denies the existence of the phenomena observed in the case study (a policy community dependent on central government); Second, that in

\textsuperscript{423} However, in stating this, it is important to remember that the strength of the disciplined party system does not completely limit the number of sovereigns active in any policy subsystem. As the case study demonstrated, from 1995 to 1997 the federal dimension of the issue led to a wide multiplicity of sovereigns acting on the issue (the Commonwealth Attorney-General, the Minister for Communications, and state and territory Attorney-Generals). This lead to a minor demarcation dispute: the NSW draft legislation fiasco is a result of this period with the NSW Attorney-General gaining support for his draft legislation while the Federal Communications portfolio was developing expertise to undermine the basis upon which his legislation was drafted. In the face of this evidence other SCAG members were quick to back away from their tacit support for Shaw's position. While this conflict could have manifest in the Federal Cabinet, the gathering authority of the Communications Portfolio (even though censorship is traditionally a matter for the Attorney-General) led to responsibility for the issue being placed under the direction of Richard Alston. Essentially, while the formative period of the policy subsystem exhibited the multiplicity of sovereigns found in Sabatier's writing, the formalisation of the National Framework in 1997 effectively ended this plurality of access points and elevated the Commonwealth Attorney-General to the sovereign of the subsystem.
assuming the rationality of policy, the value of Rhodes's view of the components of policy networks (appreciative systems) is limited in its descriptive application; and, Third, while Rhodes effectively abandoned the concept of "policy style" as an explanatory "macro" theory in the 1980s, seeing the concept of policy style as "paradigm" applied by policy makers to new problems shows how policy making can demonstrate limited rationality, and how this can impact upon policy be bounding the definitional parameters in which future policy making can occur.

(I) Beyond the Network
Ironically, having given sovereigns agency at the conclusion of the theoretical critique of the ACF, the first theoretical criticism of Governance is to reiterate this free will and then to strip it away again. This problem is based on the fact that, by combining his theory of policy networks with the wider conception of the nature of state that is the theory of Governance, Rhodes's approach encounters a fundamental contradiction.

This contradiction can be stated as:

Given that policy networks need not be characterised by the stability, closed membership, and monopoly of power characterised by "policy communities" (Rhodes, 1990:304), but instead may be fragmented, open systems with vastly dissimilar distributions of power between the membership ("issue networks"; 305), how can his theory of networks, in the face of contradictory evidence, support the overriding view of the modern state presented by Rhodes as the core of Governance (that is as a "a collection of interorganizational networks made up of governmental and societal actors with no sovereign actor able to steer or regulate" (1996:666))? Simply put: Given we see the formation and stabilisation of a policy community in the case study, why does the wider institutions of state appear to have so much power over it? Fundamentally, it is possible to identify that, while including the continuum between policy communities and issue networks, Rhodes's conception of Governance is weighted towards the emphasis on policy communities (tight, ordered) rather than issue networks (fragmented, atomistic) where the distribution of power is great and particular interests and state actors might dominate. Where communities form, he argues, Governance results because of the insulation of these policy-making networks from institutional power such as the Parliament and central direction (i.e. Departments and Ministers).

However, in our case study, what we see is a predominance of an institutionally-dominated policy community, centred around a key minister, who has a high degree of control over the policy process (dominating the timing and content of the legislative debate), and in which the predominant resource-dependencies are historically derived and hierarchical.

While the dominance of the Minister over the legislative debate could be argued as a core element of a defence of the strength of the policy community against "outsider" groups, it is clear that in a nation dominated by disciplined parties, there is no capacity for a Minister to exert significant independence from their wider political environment. This can be seen in the case study, where the position of the Minister for Communications, Information Technology and the Arts was inherently bound up with his relationship to his party peers (especially given the unique cross jurisdiction of Communications and Attorney-General's on online content policy development and implementation). As Senator John Tierney observed of the interplay between members of the Cabinet on censorship debates (interview: 9/3/99):

"the Minister [Williams] is a liberal on these issues, more so than probably the Labor Minister [Lavarch] was, that's the interesting thing. We [historically] had a more conservative Labor Minister and a more libertarian party, the Liberal Party ... in this Government [has] got ... a more conservative party and a more libertarian Minister, which is Daryl Williams, Attorney-General. Now to the point that Richard Alston, who took a more conservative approach on a number of things actually got
rolled by Williams in Cabinet on a number of key issues, particularly on non-violent erotica where Williams won, and that's a lot, the porn industry have been trying to get that for decades, and couldn't get that through the Labor government and got it through ours."

Thus, while networks may have had independent life of their own, membership of party and government brought rules of the game and resource dependencies that were stronger than either the policy preferences of the Minister (in the case of video classifications at least), or the sphere of influence he developed in the Communications portfolio with industry representatives like Peter Coroneos. Thus, if we consider party affiliation as another binding network structure to which the Minister was a member, we can explain the level of authority he could command within the policy network (capacity to act), with the limitations placed upon him by the resource-exchange relationship between him and his party network. This approach is supported by the work of Schwartz (1994:79) who saw that parties could be defined as "networks" of political actors bound together by interpersonal relations. Schwartz states that the importance of these links dominate the core party executive and that "there is no organization without such links" (80), reiterating the importance of these über-network connections on the activities of sovereigns in the political subsystem. Thus, as Ministers tend to be involved in a range of policy debates, figure 8-3 is useful in illustrating the multiplicity of resource dependencies a Minister such as Alston might be bound given the range of networks in which they feature, especially for a Minister like Alston, in a key regulatory portfolio (online content, terrestrial, mobile, satellite telecommunications, broad- and narrowcasting, etc.).

Figure 8-3: Overlapping Network Memberships

Overall, this criticism shows a number of key points about Rhodes's use of policy networks and Governance. First, while networks do have a degree of independence in the way they operate outside of traditional institutional structures, this is limited where institutional policy making is required (in the case of online content, where members of the policy network were awaiting a legislative response). Second, this focus on institutional power can raise the importance within networks, even policy communities, of key actors who control access to these sources of power. Third, while this gives figures like the Minister for Communications significant power relative to his peers in the online content regulation policy network, we must recognise that their control over the resource of parliament is itself the positive-sum output of other network memberships (such as party and government). Fourth, that these multiple memberships impose constraints and

424 However, as these relationships create mechanisms for the contesting and exercise of power, these can also be defined as resource dependencies.

425 This simplified diagram that could be overlaid with a larger number of network circles around the various Ministers indicating their other social and policy commitments (additional policy networks for example).
limitations on the exercise of power that impacts on the Minister and, therefore, on the policy network he dominates. What this means is that, while Rhodes saw Governance as limiting central power, where institutional policy making is required, power of the centre, even over policy communities, can exist.

(II) The Absence of Rationalism
For Rhodes, policy making in networks is a highly rational process. Policy is conceptualised in the same manner as causal theory (from Wildavsky, 1982:35) aimed at the explicit response to social problems (a commonly-held explicit view of the role of policy; see Bubnick and Bardes, 1983:5) and is conceptualised by participants in their various appreciative systems—interpreting the observed world based on a range of internal processes (memory, interests, norms, goals). This view of the cognitive processes of policy conceptualisation is very similar to that presented by Young, et al. (1980:59) who see the structure of an individuals’ assumptive world as “a map of problematic social reality” (this idea is drawn from Geertz, 1975). They conclude that the conceptual model of reality that is the assumptive world allows predictions that “take the form of hypotheses about future events, and the degree to which these are validated by actual occurrences is fed back into the conceptual model which is then modified and elaborated accordingly”. In determining what outcomes will result from network policy making, the various resource-exchange relationships and strategies applied by participants will determine what causal theory (or compromise theory) will be used to form the basis of a policy response. Thus, where approaches like public administration see the analysis of organisational structures as instrumental in determining the value of policy outcomes (Dunleavy, 1982:215) Rhodes’s conception implies an evaluation of policy impacts in line with the rationality of policy conceptualisation process. In evaluating the policy implementation process therefore, rather than “Is this agency sufficiently skilled / resourced / positioned to implement this policy successfully?” Rhodes asks “Does implementation demonstrate a fit between reality and the causal theory underlying the policy approach?”. 

While Rhodes’s view of the rationalism of policy making is itself limited by the operation of policy-making networks pragmatically (using bounded rationality), strategically (the need to reach agreement, mutual adjustment, timeliness of action, etc.), and culturally (based on the rules of the game) his approach essentially includes the core elements of implementation analysis: the implementation gap is simply the variance between the assumptive world and the real world. As seen from the case study, however, this overall assumption is inherently dubious where there is a lack of identified causality underlying an extant social problem, as Senator John Tierney (interview: 9/3/99) stated:

“You’re grappling in a very undefined area. What’s happening out there you don’t know the full extent of it, what the communities attitude is to it, particularly when the community itself doesn’t know. The community doesn’t know it doesn’t know (laughs) ...”

Thus, what the case shows is that not all policy can be seen to be founded on a "rational" set of casual theory about the relationship between an identified social problem and the nature of the world as perceived by members of the policy subsystem. In identifying the nature of decision making, therefore, the connection of policy outputs with underlying causal theory may be a purely methodological problem (as it was for the ACF’s study of core beliefs), or it may be due to the lack of a rational basis on which policy is developed (Blumer, 1983:5–6). That Rhodes does not identify this second proposition can be seen in his discussion of the “goal-model” of organisations (1981:103), where he sees the ability to use formal statements as a guide to behaviour as limited because there is a difference between the “formal” (stated) and “actual” (hidden) goals of network members. It does not occur to him to include a third view: that

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426 According to this view there exists appropriate institutional structures and relationships to meet the needs of good government and good policy making / implementation.
formal goals may be difficult to interpret because of a lack of rationality underlying policy making.

(III) A Role for Policy Style as a Meso-Level Explanatory Tool

Given our findings of the lack of an underlying rational basis for the content of decisions in some areas of policy making, it is important to look to an explanation for the nature of the policy response in these non-rational cases. Such an explanation can be found in re-adapting a role for the concept of "policy style" as an informative guide to decision making within policy networks in periods of environmental uncertainty (a popular approach, see: Padgett, 1990; Howlett, M, 1991; Altenstetter, 1994; Coleman, 1994; Coyle, 1994; Falkner, 1996; etc.). For Rhodes, "policy style" is a concept that was negated by the existence of autonomous policy communities, the core of Governance. In taking Richardson, Gustafsson, and Jordan's (1982) definition of policy style as:

- policy makers (be they politicians or civil servants) will often try to develop standard operating procedures for handling issues which arrive on the political agenda (that is, there is a behavioural policy style).

Rhodes was troubled by the way that this approach (as a macro-level explanation for the character of policy making in nation states) binds the actions of policy-making networks to a "national character", and is, therefore, subject to a wide range of problems of exceptionism through empirical investigation of deviant case studies. However, the view of policy "paradigms" and the standardisation of procedures (or "departmental philosophy"; see Bridges, 1971) at the network or über-network level is valuable in explaining why particular types of policy responses are applied to new policy areas, as opposed to stating that all policy areas have an overriding national characteristic as discussed by Richardson, et al. (albeit with their noted concerns about the approach).

It is apparent that, as noted in Chapter Three, while the later work of Rhodes moved to de-emphasise the reliance on corporatist theory as a grounding for analysis of the role of Government in regulating the nature of policy communities (his original flirtation with a macro-level "corporatist style"), we can identify a corporatist intermediation structure that exists within, not only the case study, but the wider networks of censorship and communications regulation (as identified in Chapter Five). Corporatist intermediation can be seen as emphasising the importance of formal associations that are functionally differentiated, which Government actively encourages in their development, and rewards their formation with inclusion in the policy network as insiders (Schmitter, 1979)427. In the case study, this form of corporatist-style peak intermediation life-cycle can be seen to begin formally with ABA Investigation's recommendation (1996:107) that:

**Associations representing various participants in the on-line services environment be encouraged to form a fully representative coalition or council which would provide an effective consultative framework for the whole on-line services community in Australia.**

However, while this report can be seen to set the tone for the later policy debate, eventually cementing the IIA as the representative body for the online industry in Australia, the decision for this is both a function of the nature of the ABA, and the decision by the then Minister for Communications to select the ABA as the body to undertake the investigation. Michael Lee's view in regards to the use of industry codes of practice for the online environment was (interview: 23/6/99) that this approach:

"was probably casting the net as widely as I could, and at the time they were pretty well all the sorts of options that were on the table. ... One of the reasons you'd expect industry self-regulation to be there is that there'd been a whole series of codes of practice that had been approved by both the Broadcasting Authority and Austel the

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427 The cost being adherence to "the rules of the game" and is limited to those associations who can claim universal or near-universal membership.
Australia's Online Censorship Regime

The philosophy both the broadcasting and the telecommunications act had been to have the regulator approve codes of practice that had been developed by the industry."

In essence, specifying the consideration of industry codes, compliance and success of the policy when implemented, would depend on the capacity of private bodies to represent large parts or discrete segments of the industry (the core elements of a corporatist intermediation system). The ABA, by nature, dealt with a very small number of discrete industry segments in the regulation of television and radio content, and Debra Richards's role as Lee's adviser (Richards was head-hunted to Lee's staff from the ABA) certainly strengthened the case for the industry code of practice model (if not the actual "typhoid Mary" of the approach)428.

Under the Coalition government, this model, continued to hold sway over policy development, reiterated in the 1997 Principles document (itself direct response to the ABA report which, et sic deinceps, leads back to Lee's initial policy decision), and forming a large part of the final shape of the legislation. Through the use of this form of delegated responsibility the Coalition went even further than the Labor Government by explicitly limiting the number of industry codes (two) that would be licensed to develop Agency-sponsored codes of practice. By mandating compliance (but not the full extent of membership), the Government effectively forced industry to form into a limited number of functionally discrete representative bodies. Thus, policy making within the legislative framework was restricted and power conferred to organisations who would operate within the boundaries set by the legislation. As of the end of 1999, only one serious contender for recognition under the Act had emerged, the Internet Industry Association's Code of Practice which was later adopted by the ABA as an industry standard. For Peter Coroneos (interview: 12/11/99) this was a victory for the Association:

"There's no doubt that we're integral players in these kinds of issues now, so that's good. I mean, we always thought that we were. The question was whether other people see that".

Incorporation therefore cemented their position in the policy-making process and gave them competitive advantage over rival / potential industry associations. Additionally, this approach can be seen to have spin-off effects on the division of political power of industry bodies between the Federal and State Governments, negating the potential influence of territorial bodies to claim significant input into the process429. This is especially true of the Western Australia Internet Association (WAIA), which also maintained a code of practice, but which was limited to specific representation of ISPs on the west coast (WAIA, 1999). This also has allowed the IIA to stave off competition from other non-industry centred bodies, such as the Internet Society of Australia, which touted the idea of forming a rival association for small ISPs in 1999 in response to the IIA's perceived dominance by large corporations (Hayes, 1999:33-4)430. However, the overall finding that should be attached to this decision-making process is that, while the capacity of online industry and user groups to have the type of wide membership that was apparent in Television, Radio, Cinema, or the Music industries was extremely limited, in applying the policy paradigm from broadcasting to online content, the lack of an underlying conceptualisation of the policy problem (i.e. the lack of a rational basis on

428 Obviously, in this case the corporatist style is apparent, however this does not mean to imply an overarching corporatist nature of relationships within Governance (the kind of macro-level theorising opposed by Rhodes's initial rejection of corporatism).

429 However, it is uncertain whether this was an intended or unintended consequence of the legislation, as the Act makes the division of regulatory responsibility between the States and the Commonwealth very clear. What role remains for industry associations in the advancement of local industry issues with the different levels of government remains uncertain at this point, however.

430 This was also because of the IIA's involvement with the Government's censorship policies.
which to develop the policy response) was overcome. This view is characterised in a letter to ISPs from the Minister, Richard Alston (source: Gibson, 1999)

For many years governments of all persuasions have accepted the obligation to reflect community standards by regulating the type of material that can be shown on free to air television. Now new technologies are emerging which will permit the dissemination of a vast range of graphic material via new mediums such as the Internet ... the community expects protection, particularly for children, from highly offensive and illegal material. The Government does not shy away from its recent decision to establish a framework for the control of such material.

Thus, the concept of policy style can assist in helping to explain the "rationality" of policy making where policy paradigms are applied to new issues, regardless of the lack of understanding of the underlying causal relations of the new policy area (rational process and non-rational policy). This is a classic example of the value of limited rationality in complex decision making environments (see Simon, 1982:170), or what March (1988:33) called "the engineering of choice": the "bounding" of problems in complex environments to structure the process of decision making (Edmunds, 1991:965). It is possible, however, to overstate the theoretical value of concept in determining policy outcomes. Essentially, in adopting the view that paradigms of policy making or elements of policy outputs are transported across jurisdictions and between policy areas, either because of their proven value, and / or because of the existence of implementing agencies with experience and expertise in this policy approach (and assorted regulatory / implementation tools), "policy style" can meet the same problems as cultural evolution theory. This theory sees the "meme" as the cultural equivalent to a gene: as a "unit of culture" that is imitated (copied, replicated, and modified over time) because of it's observed value; Blackmore, 1999:6, 7). This approach has difficulty in application, mainly because it is difficult to determine what a precise "unit of culture" is (a word, a phrase, a fashion, a song, etc.?). Thus, in talking about the reuse of "policy styles" it is hard to determine at what point a modified "style" ceases to be a policy style and is a newly developed policy response. Thus, without overstating the value of policy style as an evolutionary theory of policy development, it is clear that similarities in policy responses between related policy areas arise, either because of the application of models to new policy problems, the cultural / experiential background of implementing agencies, or as the result of the application of theories of causality across areas without a "rational reason".

Reformulation

As has been expressed previously, the use of the case study as the basis of analysis limits the generalisability of any theoretical insights drawn from it. Suffering from the "n of 1" problem it is possible to overstate the importance of theoretical findings drawn from a single empirical case. Additionally, in this evaluation of the online content issue in Australia, we can identify the theoretical analysis as based upon a "deviant case study" (Molnar, 1967), in that, the case is taken from the formative stage of the policy subsystem / policy network period, rather than looking at more established issues, such as health, education, or natural resources debates, the staple of political analysis (an excellent example of this combination is Scott's volume Interest Groups and Public Policy: Case Studies from the Australian States). However, as Lazarsfeld (in Kendall and Wolf, 1949:153) states, the deviant case analysis is useful in positively advancing theoretical development in addressing, head on, areas of theoretical complexity or variation from expected hypotheses. This final section, therefore, takes the lessons and limitations of the "deviant" case of online content regulation in Australia and presents a number of additional approaches that help explain the dynamics of the case study and may therefore have some value in applying the two methodological approaches to the Australian policy-making process. In doing so two areas are examined: first, the role of
institutional state actors is concisely re-emphasised given our findings of their having important, central roles in the process of policy making; and second, that while sovereigns may occupy these central and important positions, they are bound by a number of identifiable resource-dependencies that limit and, importantly, shape the nature of policy responses.

**The Role of the State I: Sovereigns and Institutions Re-emphasised**

As presented in the three sections above, it is an inescapable conclusion that regardless of methodological limitations on investigating their actions, Ministers and other state institutions had key roles in establishing the direction of policy and the nature of the formative policy subsystem. This finding is in direct contrast with the inherent pluralism of the ACF, and Governance's conception of policy networks as largely independent entities from the wider power structures of state institutions. This finding can be expressed in two basic points: Legislators have agency. They can lead policy communities and ignore some of the wishes of members of dominant coalitions, and Ministers' and Institutions' capacity to control the policy agenda and problem definition provide sovereigns with this power to act.

(I) The Power of One: Ministers in Policy Networks

In the case study it is evident is that among subsystem members, key sovereigns had control of legislative power which gave them specific, unique resources or guidance instruments for effecting policy change. For decision makers like the Minister for Communications, this is manifest in their central position in the policy network, and the way that policy decision making was effectively controlled by the legislative timetable upon which they operated (thus, after a long period of quiet policy development, the final shape of the regulatory regime was altered, presented, debated, amended, and legislated over two months based on the Ministerial decision finally to legislate). Thus, where the ACF’s inherent pluralism would indicate that sovereigns like Alston would be responsive to the pressure of the, clearly dominant (under Sabatier’s conception), light regulation advocacy coalition (seen in the IIA’s desire for legislative action to formalise ISPs standing on the question of liability for content), Alston’s failure to act on this matter until 1999, and the speed with which the legislation moved through the Parliament, reflects the Government’s ability to control the legislative timetable and significantly effect the time for serious debate over the substance of the Bill. For groups like the IIA, which were both members of the policy community and the subsystem’s dominant advocacy coalition (unlike the YMA), this power negated alternative strategies with which they could apply to alter significantly the legislation as a whole, such as media campaigning (public pressure) or deferment of the decision (non-decision), given that their “wins” on the issue were far from their most desired legislative framework (Peter Coroneos, interview: 12/11/99). Thus, while the IIA was able to use its position in the policy network to gain access and present arguments to sway the Minister’s views, it is clear that, even within the network itself, a very complex deployment of power existed prior to the passage of the *Broadcasting Services Amendment (Online Services) Bill 1999*.

(II) Stirring the Pot: Institutional Causes of Policy “Problems”

In identifying the power position of the Minister and Government over the legislative process, what can be seen is that the effective use this potential resource (legislative power) was dependent on Alston’s political legitimacy in asserting a legal and moral right to act.\(^{431}\) In the first case, the Minister is charged with legal legitimacy over state power through the electoral process, a clear "mandate" power to make legislation for

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\(^{431}\) Prior to the development of the Governance thesis, Rhodes saw governments as having the "key ability to control access to policy communities, the agenda of issues, the rules surrounding the game and the timing and scope of consultation." (1985:10).
In the second case, as identified by Gusfield (1981:4–6), the issue of online content needed to be established as a "public problem", and, therefore, one based on a social problem that the Government had not just a right, but a responsibility to resolve in the public interest. For Gusfield, this process (the conversion of a social problem into a public one, *i.e.* from a problem that should be addressed, to a problem that should be addressed by *government*) is essential in defining a phenomena in such a way as to cast it as a *political issue.* Without this process, therefore, there is no public policy problem and thus Government has no legitimacy to interfere (neither is it subject to calls for action). Thus, in successfully asserting this online content was a public problem, the Minister was able to bring his legislative resources to bear on the issue.

In this process we can see that legislators and institutional actors can engage in the role of "policy entrepreneurs", attempting to use their position to highlight a problem and present solutions to it (Weissert, 1991:263; Mintrom and Vergari, 1996:422). This role can be undertaken providing the fora for particular interests to articulate their problem- or policy-oriented views (such as the role of the Senate Select Committees to air the views of groups advocating pro-regulation, who would normally have difficulty getting on the public agenda), or using their institutional position to highlight a particular problem or solution (Alston's "talking up" of the problem of snuff film makers and paedophiles in his media releases and interviews of 1999). Thus, institutional actors can assist in creating and defining public problems (*i.e.* placing an issue on the public agenda and linking it with causal theory; in this case, arguing that there is pornographic and illegal material online which is a threat to children, and that this can be alleviated by government regulation of the medium). When these actors also control the process of legislation, they have the capacity to take these public problems and convert them into action by "opening the policy window" and pushing their predeveloped solution through (Kingdon, 1984:173). Thus, in the case study, while the issue of online content was asserted as a public policy problem by the Senate Select Committee on Community Standards in 1995, this view was formalised by a number of institutional processes: continued work by the Committee; the view of the ABA that Government action was a legitimate response to the policy issue; and ongoing Ministerial statements and government policy statements that action on this issue was needed and desirable. In 1999, therefore, the Minister "opened the window" and pushed a policy into legislation based on the precondition that a problem existed. That a non-dominant advocacy coalition opposed the policy problem, and a range of subsystem members, objected to elements of the government's response explains the way in which the legislation debate occurred (quickly, reducing the capacity of no regulation coalition members effectively to deploy strategies attacking the existence of the public problem of online content). Thus, while the Minister effectively controlled the process of legislation, the fast strategy attempted to take advantage of the policy window before competing coalitions might be able to undermine his legitimacy (by attacking the precondition of the legislation: that either a problem existed, or that government action on the problem was necessary).

**The Role of the State II: The Semi-sovereign Sovereign**

Given the importance of re-emphasising—as highlighted in Chapters Six, Seven, and in the theoretical (and reflected in the methodological) critique and reformulation of—the role of "sovereigns" and key institutional actors in shaping decisions in policy subsystems / networks, it is important not to over-emphasise the role of these actors in

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432 While constitutional reasons were raised as arguments against the legislation proposed by the government by the Eros foundation, during the legislative debate no significant legal objection to the power of the Minister to act was presented.

433 A "public problem" is a problem that can be addressed (*i.e.* solved) by action of government. This is different to a "problem" (*i.e.* one that can be solved, without government) or a "difficult condition" (*i.e.* a difficulty that cannot be solved).
controlling the policy process based on their institutional position alone. That the Minister was not able or willing simply to ram through the content of the original legislation shows that, while his power was considerable, it was necessary to concede significant concessions to the IIA to maintain network solidarity (given it was likely that the IIA would not continue to offer itself as a co-regulator if the full mandatory filtering package were to be enacted, withdrawal from the corporatist intermediation process the final sanction available to the Association). Thus, while the case study data indicates the importance of these individuals in shaping the outcome of the legislative debate, it is clear that future policy implementation will serve to shift the emphasis of decision making away from the Minister for Communications, Information Technology and the Arts, to the nexus of regulators, industry, and selected consumer groups engaged in the administration of the co-regulation system. This would effectively insulate elements of the policy community from the Parliament, and bring the case more in line with Rhodes’s concept of Governance, showing how the light regulation will “control” key implementing agencies. However, in explaining a rationale behind the view that, while significant, institutional power is bounded and limited, two arguments are outlined below: First, as sovereigns are bound in their action by über-network membership, conceptualising their range of available actions must be considered in a resource-dependant manner outside of the normal boundaries of the policy network; and Second, given that competing dependencies shape the actions of key sovereigns, the impact of these competing relationships can be seen by breaking up the concept of “policy”, undefined in both approaches, into their component parts. These parts can then be identified by their importance (significance to the policy network structure), and identified by their "real", "symbolic", or "nonsense" characteristics.

(I) Value Structure and Policy Tradeoffs
Given that competing network membership of sovereigns has been identified previously, it is important to stress simply that these multiple members constrain freedom of action by sovereigns in the policy making process—and force compromise positions in the realisation of policy outputs. For a Minister such as Richard Alston, the timing of his legislation, its content, and his political strategy was dependent on agreement with both his Cabinet peers, and wider parliamentary party. While investigating these elements is difficult because of problems associated with methodological access to key players in this process, these interdependencies can be conceptualised as resource-dependencies in exactly the same manner as Rhodes sees network membership (including "rules of the game", i.e. party culture, operational rules, etc.). While these complex relationships could be investigated using game theory to show how policy adjustment occurs through negotiation, the lack of evidence of this form of negotiation outside of the party mechanisms is problematic. For example, taking a more strictly-structured rational choice view of the role of the Government and Senator Brian Harradine in policy negotiation and mutual partisan adjustment over the online content issue is not helpful in advancing the explanatory approach of either the ACF or the model of Governance. This is because Harradine and members of the government deny this occurred (As Senator Jeannie Ferris stated, there was not specific "handling" of Harradine; interview: 21/6/99), and because the political environment and Harradine himself fails to conform to the preconditions of a rational bargaining model: overall the policy subsystem cannot be conceptualised as a "perfect (political) marketplace" because of the limited number of participants, the cost of information, and the potential positive-sum nature of the political processes at work. Moreover, while Harradine’s actions are purposive (i.e. social teleology exists), it is doubtful that he can be seen as a purely utility optimising individual, and he lacks the rational egoism necessary for application of the approach (Zafirovski, 1999:247–96).

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434Which is quiet obviously a counter to the view of Sabatier that advocacy coalitions control sovereigns and the only other source of constraint upon them is via externalsities.
What can be seen from the interview data, however, is that Alston was "very political ... He's deputy leader of the Senate, that's the nature of what he is" (Carina Chapman, interview: 13/8/99). In dealing with his multiple resource-dependencies however, he did not need to engage in direct and overt bargaining to ensure success in pushing his policy though the policy window. As an individual well versed with the nature of the Senate as a legislative chamber where the Government had to gain either cross bench support or the vote of independents like Senator Brian Harradine or members of the Australian Democrats, and one subject to the competing über-network pressures. The Minister's "bargained position", therefore, can be seen as a result of overt internal party debate (through the Cabinet) and an accommodation of the views of Senator Harradine on the issue drawn from his well known policy position on censorship issues generally and online regulation specifically (re-articulated through many Senate Committees). Moreover, if the Minister engaged in policy adjustment without negotiation, giving the independent Senator the opportunity to reiterate his views in the Senate Committee on Information Technologies in 1999 is logical: the Government supported its formation, regardless of the fact that the rational strategy of the Minister would be to oppose the formation of a fora that might challenge the legitimacy of the his action by giving a forum for members of the no regulation coalition to attack the underlying premise for the new laws (the argument that a public policy problem existed). Thus, while this shows that the Minister, as a source of key institutionally-oriented power over the development of policy, was bound by his multiple resource dependencies that can be seen to impact on the policy making process though formal bargaining and policy adjustment without negotiation, what is needed is a way to determine how these interrelated constraints served to influence the final policy response.

(II) Bargaining and the Value of Policy Elements: Winners and Losers in the Policy Process

In explaining how the complex pattern of resource-dependencies of the Minister for Communications (as illustrated in figure 8-3) impacted on the policy-making process it is possible to develop a method for assessing the manner in which bargaining can be assessed where clear victory for the dominant advocacy coalition is not clear (as in the case study). Taking Dubnick and Bardes's normative definition of policy (1983:8) as "the expressed intentions of government actors relative to a public problem and the activities related to those intentions", we see Lowi and Painter's points from Chapter One reconstituted: policy is a collection of express statements that involved content and process in the exercise of government power (coercion). Thus, in evaluating elements of policy (in the form of "statements" or "intentions") of the legislative response proposed and then passed by Senator Alston in 1999, we can attach a "value" and a "beneficiary" to each policy element. Between the introduction of the Broadcasting Services Amendment (Online Services) Bill and the final passage of the Broadcasting Services Amendment (Online Services) Act changes to the legislation can be seen to be the result of the bargaining between members of various policy networks in which the Senator had resource dependencies. By comparing what we know of the disposition of coalition members with changes to the policy elements, we can determine the relative importance of different resource dependencies within the Ministers multiple networks.

Providing the "weighting" mechanism for this evaluative tool, therefore, is Gustafsson's policy matrix (as featured in Figure 8-2): detailing the level of commitment to the policy and it's internal "rational" basis of policies. What Gustafsson (1983) identified is, that in policy processes with a diffusion of power (where decision makers are subject to competing demands), government may respond with a range of policy types. These types he calls: real, pseudo, symbolic, and nonsense, and are distinguished by the intention of government to implement the policy, and the existence or otherwise of clear understanding of the preconditions for implementing the policy. Essentially, this view extends the argument of Edelman (1964) who defined symbolic policy as a policy response that was not intended to be implemented because the motivation behind public
calls for governmental action is difficult to measure empirically, and/or the actual problem is one that will or may occur in the future. These factors encourage decisions that emphasise the search for information to resolve uncertainty (often fed by rumour and speculation) and publicised government action that asserts a factual state of affairs that may not actually exist. In extending this idea, Gustafsson sees some policies as content free, while others are intended to be implemented but lack a clear underlying understanding of how the policy might be implemented. While "real" policies are those built around a strong rational basis (underlying causal theory and political will to implement the policy), symbolic and pseudo policies are classified in figure 8-4 as "quasi" policies: policies with limited substance, but with the potential to have some form of policy impact (pseudo because of the attempt to implement the policy and symbolic because of the impact of policy symbols on public action, allowing government to influence conceptions of what is proper, fact, and expected).

**Figure 8-4: Policy Type Matrix**

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<th>Are decisions intended to be implemented?</th>
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<tr>
<td>Yes</td>
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<tr>
<td>Are decisions based on available knowledge regarding preconditions for implementation?</td>
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<tr>
<td>Yes</td>
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</tbody>
</table>

source: Gustafsson, 1983:276 (*annotated)

By extending Gustafsson's definition of policy types to identify elements within a policy response as real, pseudo, symbolic, or nonsense, we can use this insight to place differential weights on different policy elements to show the corresponding importance attached to them by the originator and agitator of the policy. As this theory is well placed to observe and evaluate policy elements prior to formal implementation, this allows us to see the intended policy decision (as opposed to that finally implemented and subject to the problems of implementation deficit) in its intended light. Overall, this allows us to see how sovereigns in Parliamentary systems like Australia (dominated by disciplined party competition), divide up policy elements between competing demands, and the importance of particular elements of the policy response. Overall, this should (as is evident in the case study) reflect the general position of the dominant coalition, who will attract more significant policy elements than rival coalitions. This proposition can be summarised in the following new hypothesis applicable to the ACF as well as Governance:

**Hypothesis Fifteen**: Where elements of policy decisions are divided between a number of competing advocacy coalitions because of a diffusion of power within the policy subsystem, the Dominant Coalition will attract policy elements of a type most favourable to them.

Thus, in weighting the value of these policy types we can assert that: for groups attempting to get policy wins by affecting policy outputs to match their preferences, it is clear that real policies would be a greater victory than a quasi policy, and quasi policy

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435 Which, by examining policy following implementation by Departments and Agencies can confuse policy failures with symbolic policy.

436 Whereas, in Sabatier's original conception of the ACF, "dominant coalitions" where simply those that consistently "won", while non-dominant advocacy coalitions consistently "lost".
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preferred to a nonsense policy (conversely when confronted with policy elements with which they object, the reverse is true). This last point is based of Stolz's view that (1985:308) the more organised the interest, the more likely they are to get a real, rather than symbolic, policy response (as opposed to less well organised interests who tend to get more symbolic, rather than real, policy responses).

In applying this approach to the debate over the Broadcasting Services Amendment (Online Services) Bill it is possible to identify in Table 8-1 a range of elements of the legislation that were unchanged, their type (weighting) and coalition which benefited from the decision. Table 8-2 lists those elements of the final Act that were either amended or introduced in the Senate chamber, and the changing nature of the policy type / weighting.

| Table 8-1: Static Policy Outcomes, Weighting, and Beneficiary |
|---------------------------------|----------------|----------------|
| **Policy Element** | **Element Type** | **Beneficiary** |
| ABA as Regulator | Real | Light regulation |
| OFLC as Classifier | Real | Light regulation |
| Co-regulatory Regime (codes of practice) | Pseudo | Light regulation |
| Email Exemption | Real | No regulation |
| NetAlert Community Advisory Group | Real | Pro-regulation |

| Table 8-2: Core Policy Changes |
|--------------------------------|----------------|----------------|----------------|
| **Policy Element** | **Original Type** | **Original Beneficiary** | **Final Type** | **Final Beneficiary** |
| International Filtering | Pseudo | Pro-regulation | Symbolic | Light regulation |
| Application of Enhanced Technical and Commercial Feasibility Considerations | No proposal | Pro-regulation | Pseudo | Light regulation |
| Pornographic Email Advertising Ban | No proposal | No-regulation | Symbolic | Pro-regulation |

What these two tables show is that, while the no and pro-regulation received minor policy "wins", in the final analysis the light regulation increased the value of its policy outcomes by altered the weighting core element most favoured by the pro-regulation advocacy coalition and supporters like Senator Harradine, reducing the international filtering provisions from a pseudo policy element to a symbolic one (i.e from a policy element that was to be implemented to one that became largely rhetorical).

Additionally, this explanation of symbolic policy elements can be combined with the power-dependant relationship of the Minister and members of his own political party. Where the Minister for Communications can be seen—through interpretation of the importance of the structural power exercised in the case study—as a proponent of the views of the light regulation coalition, in seeing him as a member of a larger set of resource dependencies with his party machine (the fundamental basis of his institutional power and therefore a more significant set of resource dependent relationships than any of those within the online content policy community) shows the importance of forming a quasi-policy response for the online content issue. Given the Minister was part of a political party that had taken a harder stance towards the level of acceptable media
content, the introduction of a censorship regime that lacked any policy response to offshore content was inconsistent with the general preferences displayed by his party. Thus, while the Minister was predisposed to promoting the preferences of the light regulation coalition, the inclusion of a range of symbolic policy elements in the Broadcasting Services Amendment (Online Services) Act 1999 can be seen as aimed at fulfilling (or at least not seriously disappointing) the preferences of Cabinet colleagues, backbenchers, and party supporters with an interest in censorship issues. Given the initial tough elements of the legislation on mandatory filtering, and the subsequent back down and amendment of the provisions, it is clear that tensions between these two positions were evident, but that the Minister's membership of the light regulation coalition prevailed. Overall, the legislation as quasi-policy served to meet the expectations of the Party (collectively), while favouring the light regulation coalition (specifically the IIA), with a privileged policy implementation role.

This type of complex power relationship—symbolic policy interface has been observed by another Australian researcher, Baiba Berzins, in an evaluation of Anti-profiteering legislation in the early part of the twentieth century. In examining this case Berzins (1971:49–52) showed how the symbolic importance of symbolic policy responses (in the form legislation) was not adequately explained by the appearance of significant public calls for action, but served to restate the fundamental ideological and economic stance of various state Nationalists parties, a maintenance of the status quo of the parties general positions. This case neatly parallels the online content case study, showing the relationship between symbolic policy and external and internal articulation of a consistent party line. For Minister Alston, the use of quasi-policy neatly served to reiterate his commitment to the stronger stance taken by the Federal Government on issues of censorship while not betraying his underlying commitment to the position endorsed by the light regulation coalition. Thus, while surface-level analysis presents action by the Minister as keeping with the overall social conservatism of the coalition parties (such as Marr's *the High Price of Heaven*, 1999; for the general social orientation of the Liberal Party see Kemp, 1994), the complexity of the structure of the legislative debate reveals this more complicated set of relationships, pressures, and allegiances. Thus, given that the Minister's action was largely antagonistic to many members of the policy subsystem, this highlights the low order of priority given to the legislation when compared to the importance placed by the Minister on adhering to the "rules of the game" of the larger network with which he was formally connected: his political party through the mechanisms of the caucus and the direction of the leader (Jaensch, 1983:121).

**Bringing the Threads Together**

In summary, by using a weighting model to explain the duel tensions of active sovereigns who are coalition members but are constrained by multiple resource dependencies and competing "rules of the game" for their overlapping network memberships, we can present a new model of the ACF, synthesising the findings of this section (figure 8-5). This revised model includes the insights gained from the investigation of Governance, in that, policy networks can be tightly ordered, but still dependent on key institutional actors where legislative decision making is an important element of the process of policy-making. As Rhodes's view of governance stresses the independence of policy networks from the Parliament, it is likely that this form of "policy community" structure will develop in the policy subsystem post 2000, especially with the implementation of the various administrative organs designed to implement the structural

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437 Schlager provides an additional explanation for seeing the role of the IIA as particularly favoured in the policy process by arguing that the "control of public authority" by coalition members is an even greater significant policy decision than a simple "real policy" (1995:250). This is based on the work of Moe (1990:139) who sees "structural choice" (i.e decisions that do not simply provide resources or shape law, but that delegate authority to private sector groups). In a way this is similar to the view of Governance, in that, this approach structures power away from interference by parliaments in favour of closed networks.
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decision contained in the Broadcasting Services Amendment (Online Services) Act 1999 to institute a co-regulatory system where the major participants will be the ABA and the IIA. Given that these groups fall within the same coalition, it is likely that this decision will further strengthen the position of the policy community in the manner presented by Rhodes. However, while the NetAlert group retains an oversight role by community organisations, and as data about the success or otherwise of filtering enters the policy subsystem and can be applied to critique the assumptions of the value of the regulatory approach, it is likely that further policy debate will occur. Overall, the revised model of the ACF is generally applicable to the case study, and likely to apply to future events in the case, while Rhodes's view of Governance is likely to reflect many of the realities of case, now that the legislative phase of policy making is over. Should the Minister (or future ministers) choose to attempt to intervene in the policy again, however, it will be useful to see how rubber the levers of policy management are in the new online censorship policy community.

Figure 8-5: Revised ACF Model

Conclusion

This chapter compared and contrasted the perspectives presented by the two theoretical models. In examining the two approaches it was important to note that the concept of the policy community offered by Rhodes and the view of the dominant advocacy coalition of Sabatier were not found to be compatible. Thus, a policy community was not the same as a dominant coalition. In examining the findings of the two approaches, however, it was clear that each benefited from the different perspective and level of abstraction of the other, with Rhodes's analysis being informed about value differences within the online content regulation policy community, and Sabatier's analysis gaining from an understanding of why some groups and organisations remain static, while others, related to them, move around in an irregular manner. In examining the research.
methodology, a wide range of specific and general limitations were presented, however the key problems were the lack of methodological attention to key policy makers who had institutionally-derived power in the policy subsystem. These methodological problems reflected, for the ACF an underlying "pure" pluralist assumption of the role of decision makers, and, for the theory of Governance, a view that policy communities could not be subject to the impact of institutional structures like the Parliament.

In countering these theoretical problems, we identified that key decision makers (sovereigns) needed to be considered as the focus of a wide range of policy networks with various resource-dependent relationships that spread across specific policy networks and coalitions, and, therefore, impacted on the outcome of policy making through limiting the freedom to act of these individuals. Additionally, for Sabatier a number of key hypotheses presented for evaluation proved to be false or to have questionable value, and the role of policy brokers was possibly overstated in the original conception of the ACF: limited internal coalition adjustment appeared a far more common behaviour for potential brokers. For Governance we saw that policies are not entirely based on causal theory, and a role existed for the previously discarded view of "policy style" as a tool for explaining how decisions are made in uncertain environments. Finally, in applying these lessons to the case study, the role of sovereign decision makers was emphasised, given the power to shape policy they possess through the "control" of key institutions (the Parliament, institutional forums for debate and policy definition / creation), then bounded by resource-dependencies from their party membership where bargaining was required to reach a policy consensus. Finally in explaining the outcome of policy debates involving these "semi-sovereign sovereigns" a system of evaluating the importance of policy for competing interests in debates where power was diffused was used to provide a measure of winners and losers in complex policy debates, and to indicate the role of party and faction in legislative policy making where neither the ACF nor Governance was capable of explanation.
Chapter Nine
In Conclusion

The outset of this study introduced our concern: given our interest in describing how public policies are made and implemented in Australia, how well do competing conceptual and methodological research frameworks operate in providing us with effective tools for deductive inquiry? Applying the two international models on the domestic process of government policy making, we followed the trend of Australian policy researchers in importing ideas from the United Kingdom and North America, with hope that through examining these approaches in depth to develop an understand of their strengths, and weaknesses, we would gain insight into how they could be improved for Australian conditions. To do this, the preferred methodology of Rhodes and Sabatier was applied to our case study, providing a rich source of comparative data about computer network content regulation in Australia. This approach, therefore, was self-consciously positivistic and deductive. Overall, the thesis is divided into three parts: Theory, introducing the background of group-based research in political science and situating the Advocacy Coalition Framework and Governance in their intellectual traditions. By presenting the two research approaches and detailing their methodologies, the underlying research approach of the study was outlined. Second, Case, introduced the background of computer network content regulation in overall debates about media and censorship in Australia. In presenting the case study, its essentially contested definitions were highlighted before a history of the case study was discussed. From this the final section, Analysis, focused our conceptual models on the case study, presenting an advocacy coalition based analysis, and the view of the case from Rhodes's lens of Governance. This material provided us an important understanding of the case material, but also provided data for comparison of method and theory in the previous chapter.

In Part I the underlying theory and methodology of the comparative investigation was outlined. This comprised a number of key areas. First, the general interest of political science with the role of groups in the policy-making process was examined, beginning with preconceptions of the role of "interests" in shaping decision making in (increasingly) democratic states. This work (from the "classics" of Bentley, Truman, and Latham) attacked the underlying basis of political thought: of the state as a monist institution, and showed how concerned individuals could interact with elements of the state to attempt to influence institutional decision making. From this view of government as clusters, whirlpools, or networks of decision makers, the role of interest groups became strengthened with the work of the post-war pluralist school who extended the importance of groups as key elements in the policy making process: from pluralistic competition models (limiting the role of the state to the arena of policy conflict), to "lopsided" models of pluralism (stressing the dominance of certain classes of interest in shaping policy outcomes), and state-sponsored bargaining and intermediation models (such as corporatism, iron triangles, the state broker model of pluralism). Eventually, through empirical investigation and case research, the observable contradictions in practice of a pluralistic "state" theory of the nature of group–government intermediation led to a fundamental dissatisfaction with the ability of any of these descriptive theories of the nature of state-group relations to fully explain how and why policy making occurred and structures of decision making developed. These criticisms led to parallel development in the United States (Heclo) and United Kingdom (Richardson and Jordan) of distinct "network" models of policy making at the policy sector or subgovernmental level. What these "micro-level" theories of policy making allowed was the conception of a process in which decisions are taken and implemented, without specifying a single national character to all policy making processes, an innovation allowing for further research into
the nature of the policy making process at the level of policy "domains" or "subgovernment".

Second, from this examination of the international literature, the uses of this theory and its interpretation to Australian conditions was examined. What was apparent in our parochial use of these competing theoretical perspectives was how Australian researchers had taken these international models as normative descriptions of the policy-making process in this country, and, with limited empirical investigation, applied these ideas to describe the nature of our distinct political processes. Thus, in examining the two approaches in a way designed deliberately to evaluate their utility in the Australian political context, the thesis attempts to gain an understanding of the value of the approaches, without accepting their inherent value outside of the jurisdiction for which they were developed.

Thus, the third element of Part I examined the background and current theory of the two models. Paul Sabatier's Advocacy Coalition Framework (ACF) can be seen as developing out of dissatisfaction with policy implement research that was divided into two distinct schools of research and theory (top-down and bottom up). From his attempts at reconciling these differences, Sabatier's work lead to the formation of a model of the policy making process that accommodates longer timeframes for change and the impact of lesson learning in government (policy-oriented learning). What this model presents is a view of policy competition by groups and individuals who are active around a particular policy issue: the policy subsystem. In this subsystem, competition between competing "clusters" or "advocacy coalitions" is mediated by policy brokers, and is subject to the impact of wider system events show how policy change occurs. For Sabatier, competition can take the form of traditional political strategies (power politics) and the strategic use of information to change the views and values of policy makers, or effect competing coalitions value systems. In operationalising this research, therefore, Sabatier advocates the use of content analysis and clustering to produce "maps" of the policy subsystem, based on the relative values of groups in the policy-making process. By linking key coalitions with institutional actors with legal authority (sovereigns), change and learning can be mapped out over the medium to long term. Rhodes's model of governance, on the other hand, policy making is dominated by more ordered "policy networks" who explicitly work together to formulate and implement policy. Networks are subsets of the those groups and individuals involved in policy debate, and, as such, are characterised by the existence of formal resource-exchange relationships. Policy making and competition, therefore, can be seen as a result of the "game" played by these interdependent organisations, who manoeuvre for advantage and attempt to increase their power without becoming too dependent on other "players". Additionally, pressure applied by groups outside of the policy making "club" can impact the direction of decision making as outsiders attempt to influence decisions or become included in the network itself. What this shows in a wider context of the modern British state, Rhodes argues, is the "hollowing out" of the state: networks becoming insulated in their decision making from the Parliament, key political leaders having reduced levels of control over the direction of policy development and implementation. Modern Governments, therefore, live in a world of "more control over less" forcing Ministers to steer today's ship of state with "rubber leavers". In operationalising this theory into a research strategy, Rhodes looks to the micro level (individuals), interviewing to collect data about the operations of these secretive and powerful policy networks.

In Part II of the thesis we examined the case study that forms the basis for our empirical application of the research approaches. The case study chosen for analysis was the regulation of content travelling over computer system networks in Australia between 1997 and 2000. This case contains a number of general components: On one level it is a new policy area that has developed because of the computerisation of society and the integration of computers and communications, while on the other it can simply be seen as an extension of the general policy debate over censorship in Australia that has
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existed since before Federation. What this means is that, as an intensely political issue, the case was fraught with definitional complexity, and tended to be dominated by uncertainty (about the nature of the policy area, about the scope or the problem, about underlying causes of the problem, etc.). In reviewing the case we can see how the issue of computer crime brought computer networks to the attention of government legislators in the late 1980s, but that the issue of online content censorship did not fully reach the political agenda until concerns about the distribution of violent and sexually-explicit video games caused State and Territory censorship ministers to investigate the role of electronic Bulletin Board Systems in distributing these materials. With the arrival and massive expansion in the use of the Internet (a defining technological, economic, and social phenomena of the late twentieth century), these concerns expanded, leading to an ongoing process of policy debate and conflict between 1995 and 1999. This process contained two distinct periods of intense conflict. Overall the result of this policy debate was the implementation in Australia of a system on online content regulation by the Federal Government contained within the Broadcasting Services Amendment (Online Services) Act 1999. The commencement of this legislative regime marks the end of the case study.

Finally, in Part III, the first two parts are combined, with the ACF and Governance being applied to the case study to provide insights about the case itself, and a source of comparative data for evaluation and reformulation of the two models used.

In applying the ACF to the case, we can see how the policy debates over computer crime and online content are distinct, with a policy subsystem for debating and contesting the issue not developing until circa 1995. Sabatier's approach, based on his explicit research methodology shows that, within the subsystem itself, there developed (on average) three consistent, competing advocacy coalitions representing a spectrum of views on what action should be taken to control online content. These advocacy coalitions—the no regulation coalition (opposed to government action), the light regulation coalition (supporting a limited, co-regulatory regime between government and industry), and the pro-regulation coalition (seeking stronger action on online content)—remained relatively stable over the life of the case study. While some groups moved significantly between coalitions, the stable dominance of the light regulation coalition over the policy making process could be identified in significant policy "wins" during the legislative debate of 1999. However, in developing the process of implementation of the new legislation, a number of new, possibly competitive structures may lead to increased tensions between members of all three advocacy coalitions, fuelled by increasing levels of information about the success or otherwise of the policy implementation process.

These findings are compared with those presented by Rhodes's view of Governance, drawn from interviews of key participants in the policy debate. What Rhodes's view shows is that the policy-making process in the case study was dominated by a large "policy community", or a group of policy makers, bound together by resource-dependencies, who strictly controlled membership of the group. This community, however, was essentially a function of the historical distribution of responsibility within government over censorship issues, and spanned two levels of the federal structure (Commonwealth and State). While some States and members of the Attorney-General's portfolio agitated for a strong regulatory response based on criminal legal codes, this view was opposed by members of the Communications portfolio who were far more supportive of a co-regulatory model very similar to that employed in broadcasting content regulation. In the debate that ensued, members of interested Senate Committees served to push for stronger action, while the policy was debated by a large range of interest groups and individuals, including a specialised social network of technical and industry professionals which tended to be critical of the governments proposed regulatory structures. In the final policy debate, while the views of industry peak bodies dominated the government's response, this was limited by the inclusion of stricter
content filtering requirements that appeared on the policy agenda, possibly aimed at conservative elements in the Coalition parties, key pressure groups, or the important Senator Brian Harradine, holding the balance of power over the legislative process. In the final debate, however, the government amended many of the strongest regulatory provisions (effectively negating filtering), undermining any concessions to conservative elements in favour of industry preferences.

In comparing these two approaches, it is possible to see how the data presented from the ACF and interview material from members of the policy network were useful in cross informing each other, regardless of the fact that the concept of advocacy coalition and policy network are not directly compatible. In the comparison of the case, we can see how some groups' policy positions in public debate were consistent over time, while others were subject to variation because of the internal operations and nature of public interest groups. Looking at the policy community, competing coalition affiliation helped to show how the policy network was essentially bifurcated into two "spheres of influence" with distinctly different policy preferences, partially explaining the level of competition and conflict over the policy debate within the government itself. What was not clear from this comparison was why the conflict occurred in the way it did and how the bargaining and negotiation process over the final legislative approach operated. In reaching these findings a range of methodological criticisms were highlighted which supported the theoretical critique that the two approaches, for different reasons, de-emphasised the important role of institutional players in policy debates of this nature (i.e. formative policy subsystems where legislation is the key element of establishing the direction of policy implementation). In attempting to address this problem it was therefore important to propose a number of modifications to the two models: First, that institutional players be seen as having autonomy of action over the timing, content, and use of legislative or institutional power. Second, in these cases institutional actors can act to create the public policy problem by shaping the political agenda and defining the phenomena as a problematic. Third, when recognising that institutional actors have agency and are active in promoting their own policy preferences, by situating these individuals in a range of competing power-dependant relationships, constraints on their freedom to act can be explained. Finally, by identifying the range of policy element types that can be included in a single "policy response", it is possible to show how competing resource dependencies impact on bargained policy outputs, and how members of different advocacy coalitions receive different policy "wins" that can be significant policy responses (have impact upon them), or a range of nonsense or quasi policy that has limited value. In weighting the policy outputs, therefore, it is possible to show how, in the range of competing relationships which institutional decision makers operate, wins and losses can be attributed to different groups based on their importance and influence in the political process.
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438Given the tendency for some of these documents to be placed on the Internet, some may be able to be found in a published form.

.. 258 ..
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Appendix 4.1
WWW-Based Interviewing: Pilot Study

Introduction
In the process of developing the online interviewing method, a small pilot study was undertaken using a group of undergraduate students to explore the value of the method. The study consisted on a brief online interview (between 30 and 45 minutes), a self-assessment questionnaire, followed by a focus group that discussed the method used. The experiment was run over two days.

Method
Four undergraduate students were randomly selected and asked to engage in an interview and focus group. The aim of the interview was described as "Observations of observed political phenomena". For the purposes of evaluating the online interviewing method, respondents were not informed about the nature of the study until the beginning of the focus group, held on the second day of the study. This deception was seen as necessary as not to bias the study or encourage the participants to focus their attention on the computer, rather, a series of realistic questions regarding current political events were used as the basis of the interview.

The interview was conducted in this manner:
1. The respondent was selected and asked to come to a office in which the interview would be conducted;
2. Upon arrival, the respondent was introduced to the computer to be used in the experiment and instructed on its operation;
3. The interviewer left the room and began the interview from another room using a second computer;
4. At the conclusion of the interview process, the interviewer returned, thanked the respondent and terminated the process.

At the conclusion of the interview a self-assessment questionnaire was given to all participants to gauge their overall characteristics, and assess their familiarity and attitudes to computers. This survey also contained a realistic set of attitudinal questions regarding current political events, to maintain the initial fiction of the interview and limit the chance of participants from discussing the online interview process in detail, should they meet between the interview and the focus group process.

The final part of the experiment was a focus group containing all four participants and the researcher. In this interview, the purpose of the research was revealed and the online interview was discussed. This session was video taped, with the content of the group, for later analysis and identification of key points. The focus group was conducted as a free discussion period facilitated by the interviewer, who served to guide the discussion and follow-up on points raised by the respondents. The focus group was concluded with general thanks to the participants before analysis of the taped material began.

The Sample

A Macintosh SE/30. This machine can be seen as one of the most limited available. It has poor screen resolution, no colour and is quite outdated (released in 1989). For the purposes of the study it can be seen to represent the lowest level of technology available to most respondents of the method.
The sample for the experiment consisted of one woman and three men. Details are presented in the table below. This information was generated from a questionnaire presented after the initial interview using the online interviewing process.

<table>
<thead>
<tr>
<th>Gender</th>
<th>Age</th>
<th>Edu. †</th>
<th>Own ‡</th>
<th>Use Comput.</th>
<th>WWW Usage</th>
<th>Email Usage</th>
<th>Inter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Male</td>
<td>41</td>
<td>13years</td>
<td>yes</td>
<td>daily</td>
<td>every few days</td>
<td>every few days</td>
<td>yes</td>
</tr>
<tr>
<td>2 Male</td>
<td>71</td>
<td>13years</td>
<td>yes</td>
<td>daily</td>
<td>every few days</td>
<td>rarely</td>
<td>no</td>
</tr>
<tr>
<td>3 Male</td>
<td>51</td>
<td>14years</td>
<td>yes</td>
<td>every few days</td>
<td>rarely</td>
<td>rarely</td>
<td>yes</td>
</tr>
<tr>
<td>4 Female</td>
<td>40+</td>
<td>14years</td>
<td>no</td>
<td>rarely</td>
<td>rarely</td>
<td>never</td>
<td>no</td>
</tr>
</tbody>
</table>

† Education Level (number of years in education)
‡ Own a Computer
Is the respondent interested in computers and computing

The group can be summarised as mature, with some degree of familiarity with computers, who are engaged in study after (or during) a career in public and private sector employment. The group had mixed reactions to computers, some interested in learning more about them and some unconcerned. All however utilised computers on a relatively regular basis (due to the requirement of university students to utilise computers). One reported having a medical impairment that prevented prolonged use of computers.

Output

At the completion of the interviews, the recorded logs of the sessions were analysed and the amount of output was matched to the respondents self reported typing speed and eyesight, as summarised in the table below (which includes the interviewers input). Overall the output of the sessions were modest with an average of twenty-two words per minute during the exchange.

<table>
<thead>
<tr>
<th>respondent†</th>
<th>typing speed‡</th>
<th>eyesight‡</th>
<th>words per minute</th>
<th>words per hour</th>
</tr>
</thead>
<tbody>
<tr>
<td>a</td>
<td>poor</td>
<td>above average</td>
<td>20</td>
<td>1200</td>
</tr>
<tr>
<td>b</td>
<td>poor</td>
<td>average</td>
<td>23</td>
<td>1380</td>
</tr>
<tr>
<td>c</td>
<td>excellent</td>
<td>above average</td>
<td>26</td>
<td>1560</td>
</tr>
<tr>
<td>d</td>
<td>poor</td>
<td>average</td>
<td>19</td>
<td>1140</td>
</tr>
<tr>
<td>average</td>
<td>na</td>
<td>na</td>
<td>22</td>
<td>1320</td>
</tr>
</tbody>
</table>

† This does not correspond to the ordering listed in table 2.
‡ From self-assessment questionnaire
 averaged over the course of the interview

Notes and Limitations

The main limitations of this study are the size of the sample and the limited variation of conditions in which it was conducted. Each respondent, within the variation of discussion topics, had a near identical experience during the study, and no additional factors were introduced that may have been valuable (such as the inclusion of a non-physical contact/presence with the respondents, use of other machines, differential explanations of the process, etc.). This was a result of the limited ability to undertake a wide scale study and analysis of response that would be very valuable in a complete

440 Estimation only.
analysis of the method. Additional limitations are inherent in the way that each respondent physically met the interviewer, and was instructed (abet briefly) in the use of the computer. This is likely to have increased the involvement of the participants to the process (other factors, such as where the interview was held, in an office of the University, will also have increased the involvement of the respondents, who would have seen the process as more legitimate and may have been less likely to terminate the interview). However, as this study was used to explore the method, these limitations were seen as acceptable.
Appendix 4.2
Example Screenshots From WWW Interviews

Figure 1: Web Browser Screen Prior to the Start of Interview

Conversation to date (click here to refresh):
Conversation has not started

The interview is now finished. Thank you for your participation.

Figure 2: Web Browser Screen Shot - Interviewers Screen

Conversation to date (click here to refresh):

Dave          Excited, I never believed they could make a pineapple so big.
Peter         How did it make you feel when you saw it?
Dave          I think it was the Big Pineapple with my parents in Queensland.
Peter         Today I would like to talk about the first big thing you ever saw. What was it?

Figure 3: Web Browser Screen Shot - Respondents Screen

Do you often find big fruit so exciting?

Submit       Set Options  New Logfile  Stop

Interviewer:
Peter
Interviewee:
Dave
Refresh Rate:

441 Screenshots taken from a Macintosh IIsi.
442 Text is an example only.
Australia's Online Censorship Regime

<table>
<thead>
<tr>
<th>Conversation to date (click here to refresh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dave Excited, I never believed they could make a pineapple so big.</td>
</tr>
<tr>
<td>Peter How did it make you feel when you saw it?</td>
</tr>
<tr>
<td>Dave I think it was the Big Pineapple with my parents in Queensland.</td>
</tr>
<tr>
<td>Peter Today I would like to talk about the first big thing you ever saw: What was it?</td>
</tr>
</tbody>
</table>

In this interview, your name is Dave. The conversation display will update every 7 seconds.
Appendix 5.1
Media Regulation in Australia

Overview
Australia, as a relatively "modern" nation state, emerged at the end of the Eighteenth Century as European expansion was reaching nearly every part of the globe. While travel to distant lands was becoming a practical political and commercial reality at this time, Australia was established as a set of colonies separated from their cultural roots via a physical distance that Blainey (1983) identified as a keen influence in shaping the social and political development of the emerging nation. This "tyranny of distance" was met in part with a localist response to the unique problems associated with being so far from our colonial masters, and a desire to bridge the distance between our disparate population centres (Osborne and Lewis, 1995:11–2). As a nation developing during a period of intense technological (industrialisation), commercial (the formation of international capitalism), and social change (democratisation), Australia quickly adopted many of the emerging technologies from abroad in a model that Todd (1995:235–6) calls "technological sovereignty": the willingness to accept technological developments from wherever they emerged, rather than simply from the parent state. This pragmatism was based on the realities of the new colonies, and reflects the problems associated with distance: the lack of the scale and specialisation of production which was needed for the wholesale establishment of uniquely Australian technologies and processes. This was also exacerbated by the limited range of local research and educational facilities within what was, essentially, an agricultural nation (Curtis and Percey, 1988:535). Thus, we can see that the early life of the colony and nation (post Nineteenth Century) reflect this technological sovereignty, with Australians adopting British (postal services, telegraphs), French (cinema), German (optics), and American (Morse telegraphs) technologies for local conditions.

In outlining a brief overview of the regulation of media technologies in Australia, this appendix examines the specific response of successive Australian governments to communications and mass media regulation. Additionally, we can see how concerns about infrastructure development and the social and political impact of message content has lead Australian regulators to develop a complex set of regulatory models for Australian communications technology. These models reconcile the desire to develop communications technologies in a country traditionally dominated by distance, with a moralistic social conservatism expressed through the censorship of the communicated content.

Regulating the Technology of Communication
From the establishment of the first convict settlements, communications have played an important role in maintaining the integrity of settlements and reducing the sense of isolation of European settlers from the "home country". Modern communications technology spread with the establishment of formal settlements as Europeans pushed out of the South-Eastern region into country New South Wales, Victoria, and northern and central Australia. Australia, as a land of distance and small, localised populations, has looked to communication as an important tool of survival, cultural exchange, and, in the post-Federation years, an essential element in nation building, defence, and the

443 It should be noted that Australia had an indigenous tradition of communication technology predating the invasion of Europeans. This technology took two forms: message sticks carried by messengers that served as "memory aids" for conveying a message between aboriginal groups, and the use of smoke signals that contained messages based on the type of smoke (density, colour), time of day, gaps between puffs, etc.. This latter form of communication was also used to convey messages over considerable distances (hundreds of miles), via relays (Curtis and Percey, 1988:534).
reinforcement of a national character. This isolation was effectively reinforced by the White Australia policy and the conscious decision by Australian governments to distance themselves from the nations of Asia and the sub-continent (Duke, 1979:19–27). With the introduction of electrical communication, the problem of resource scarcity became paramount. As a means of communication, the range of available channels were limited by two factors: the number of direct connections between points (the number of physical wires connecting points of communication) and limitations associated with the use of the electromagnetic spectrum (broadcasting spectrum). As Brown (1986:58–9) outlines, because of competing interests in the use of this limited available spectrum, government regulation of the "air waves" is a near universal phenomena. Thus, because of the social and strategic importance of communications, regulation of scarce communication "resources" has been a feature of the physical limitations placed on communication services (Postal and Telecommunications Department, 1976:358). During wartime this lead to restrictions placed on newsprint, but more commonly has focused on government intervention in the division of the limited broadcasting frequencies (radio and television spectrum), as well as those frequencies available to mobile telephone companies and essential services.

Postal Services
For the fledgling colonies of the Australian continent, communication with Britain was of preeminent importance. This was not just because communication brought news to the distant English population, but communication arrived with much needed additional supplies, and labour. Harcourt (1987:3–5) notes that at colonisation Australia was generally regarded as a worthless continent, a feature which restricted naval traffic and limited the average turn around of sea mail to over a year. This view was to limit the quality of international communication for Australia for some time. Internally, Australia's postal system developed from the introduction of the first official postmaster in 1809, when the Lieutenant-Governor of New South Wales appointed Isaac Nichols to administer the delivery of letters and packages to prevent their theft from arriving ships. This delivery system was supported by British international mail services run out of the United Kingdom, a system run not only for the purposes of communications, but also to support the Empire's political and military concerns. Limitations in the amount of naval traffic that visited Australia were finally brought to an end with the advent of the gold rush, a phenomenon that was to triple the population of the continent in a decade (Hartz, 1964:282). This expansion in population lead to more regular, faster, and better supported (in terms of technology of vessels) international mail, and the co-operation of colonies in the commissioning of mail routes by 1857.

Carroll (1992) outlines the development of the postal service from this point, illustrating the ongoing expansion of postage through the colonies and the adoption of technological improvements for the delivery of mail within and between the colonies, and

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444 While the spectrum has increased with technological development (for example the compression through digital transmission), this rate is limited and forms an effective boundary on expansion.
445 Given (1998) also illustrates how this view of radio spectrum as a scarce national resource has extended into recent decisions relating to the conversion to digital radio and television broadcasting in Australia.
446 In the first years, the colony were afflicted with near starvation, as seeds damaged in transit failed to germinate. The colony ventured (and lost) some of its naval capacity purchasing emergency supplies from South-East Asia and South Africa.
447 Which had very little to export to Europe, thus limiting the number of ships that called upon Australian ports.
448 This, according to Livingston (1986:27) lead to initial discussions about the concept of federation of the colonies.
between Australia and Europe. This pattern of growth was motivated by the expansion of occupied territory in Australia, with the gradual replacement of the population from convicts to released and free settlers with the money and motivation to demand better postal services. With the Federation of Australia, the Commonwealth Government acquired responsibility for posts, merging the various colonial postmasters' departments into a national service (Commission of Inquiry into the Australian Post Office, 1974). This service was based on the model provided by the British postal service, containing a rationale for government monopoly of the delivery of correspondence: to allow the Crown the capacity to intercept mail at will and retain a valuable commercial enterprise (Parliament of the Commonwealth of Australia, 1982:38). Governmental control also allowed the setting of delivery prices for standard mail to a flat rate, supporting regional and rural consumers through subsidisation by the more densely populated coastal fringe (a cross-subsidy that would later be latter applied to electrical communication). While the amalgamation of the colonial services did lead to some problems establishing an efficiently integrated postal service—leading to a Royal Commission into the service in 1908—the postal service, with its associated telecommunications functions, continued to develop and expand throughout the Twentieth Century. By the 1950s the Department had developed into a widely diversified organisation, with a large number of administrative and technical units (because of its multiple functions; Postmaster General, 1956). This situation remained unchanged in the mid 1970s, when telecommunications were separated from the Postmaster General's Office in 1975 following the Vernon Commission of Inquiry. The 1975 separation also saw both posts and telecommunications becoming government-owned enterprises, rather than remain Commonwealth Departments (Albon, 1985:10). In 1982 the Bradley Committee of inquiry questioned the issue of the postal monopoly (Industry Commission, 1992) and, with the microeconomic reform agenda of the Labor Government (circa 1988 onwards), the postal service became an independent statutory corporation with profit-oriented management backed by consumer service obligations (Australian Postal Corporation Act 1989). This profit orientation encouraged a relaxation of the number of branches, leading to rural branch closures and amalgamations, and the incorporation of outsourcing and contracting in the delivery of mail services in the 1990s. However, while elements of the postal system are subject to greater competition (especially package and courier services) by the close of the millennium the service remains a state-owned monopoly based on the general premise of holistic service delivery and fixed price letter delivery.

**Telegraph and Telephones**

Calls for the introduction of electrical communication came fast on the heels of significant international developments. Less than one year after the opening of the Washington to Baltimore line by Samuel Morse in 1845, calls were made in the Australian colonies to import the telegraph (Clarke, 1991). The technology was introduced into Australia by the entrepreneurial Samuel McGowan who imported the concept and technology in 1853. Moyal (1983:24) notes that his plan to introduce a commercial telegraph service was quickly precluded by the Victorian colonial government's decision to call for tenders for a publicly owned service to run from Melbourne to Williamstown, constructed by McGowan who was to become Australia's first superintendent of telegraphs. The introduction of the technology was a boon, not **\[449\]**

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**Footnotes:**

449 The British rationale for mail interception was to allow the identification of traitors.
450 In the case of mail, however, the subsidisation was limited. This is because the cost of standard mail delivery is more closely associated with the price of handling and sorting, were transport costs make up a small proportion of the overall cost of delivery.
451 Although South Australia was to adopt the British model of telegraphs for their system.
only for the speed of personal communication within (and later between) the colonies, but, once established, the telegraphs became strong elements of government operations (Government Departments being heavy initial users of the services), and the maintenance of service and extension of their reach advocated by both commercial news interests, for the communication of stories, and local Chambers of Commerce, for the facilitation of trade (Harcourt, 1987:50–1). While private interests were very supportive of the extension of these services, the only major private telegraph service was established in Western Australia, which was acquired by the Colony in 1873. Government control of this increasingly important communications tool became the norm, with the colonies even calling for the acquisition by the crown of the privately constructed line linking the Australian mainland to England, via Singapore (Livingstone, 1996:92). The development of intercontinental communications led to competition among the states to secure submarine cables, with fierce rivalry between Queensland and South Australia (via the Northern Territory) extending telegraph lines north from Brisbane and Adelaide. This competition, in the lead up to Federation, combined with concern about local access and quality, led to constitutional dispute over the most appropriate jurisdiction for the medium. The resolution of the dispute, to hand over "postal, telegraphic, telephonic and other like services" to the Commonwealth, would not only shape the development of telephone services in Australia, but would also include broadcasting as a domain of the newly formed Federal government.

While the technology of telephones had been introduced into Australia as early as 1876 (Moyal, 34), by Federation development of the medium had been slow and only 33,000 telephones existed, none connected to anything greater than local exchanges. The development of telephone communication was driven essentially by local innovation and interest, and the introduction of point to multipoint telephones encouraged by commercial innovation, only to be acquired by the colonial post offices following demonstration of public interest or commercial return. Telephone services were perceived differently to the "necessity" of the telegraph, and initial developments centred around the connection of capitals and major towns, with interstate lines following. However, this view was not to last, with the incorporation of the various Postmaster Generals' functions into the Commonwealth Government, emphasis on developing the technology was centrally directed. Moyal (1984) sees the wide scale development of telephone services as driven by the strong personality of administrators like Sir Harry Brown, the need for intracontinental communications during the Second World War, and the post-war economic boom. Thus, costs associated with developing long distance telephony in Australia necessitated government intervention to establish the market during the Eighteenth Century. Over time the monopoly became established and entrenched through legislation under the Commonwealth Government (Albon, 1986:13). This approach did not only allow the development of infrastructure where it was economically unfeasible to do so from a commercial perspective, but also permitted the

452 Similarly, the South Australian establishment of the telegraph (a line between Adelaide and the port) was privately established before the company was acquired by the colonial government.
453 Tasmania, which received the telegraph in 1857, did not get a fully functioning undersea cable to Victoria (a joint venture between the two governments) until 1869 (Branagan, 1987).
454 International Telephony was placed under the control of a separate government corporation: the Overseas Telecommunications Commission (OTC), which was established in 1946 (Telstra Corporation, 1999).
455 From their introduction, the importance of telephones to Australia developed to the extent that, following the Second World War, the Federal Government developed the policy of import replacement for components that substantially reversed the ratio of import to locally manufactured telecommunications equipment and components (Houghton and Paltridge, 1991:1).

.. 269 ..
deliberate use of cross-subsidy to reduce communications costs to regional consumers (Bureau of Industry Economics, 1988).

Federal government involvement in the development of communications infrastructure peaked with the introduction of the Aussat satellite system. The satellites were initially launched in 1985, after agitation by existing commercial television proprietors for extensions to the coverage of the commercial television networks, on the basis that this technology would serve to provide equality of service to regional Australians (Barr, 1985:173, 141). The system reached the entire continent with television and radio broadcasting that allowed the initial broadcasting of government-owned services and later commercial network content (Fowler, 1987) and telecommunications. This introduction occurred, ironically, in the early years of the establishment of Telecom as a Government-Business Enterprise, with the telecommunications carrier forced to take on a part of responsibility for the national satellite system, a move that proved to be a financial burden, as Aussat failed to make an economic return (Amos, 1997). This establishment was the beginning of a policy shift to private development of telecommunications services in Australia (Athanassiadis, 1997), either through commercialising the activities (and finally the sale) of Telecom / Telstra, or through the introduction of new competitors (Optus Communications) in the 1980s and 90s (Department of Communications and the Arts, 1994a:iii). The privatisation of Telstra had been well underway with the transition of Telecom into a government-business enterprise. This was followed by the introduction of new competitors under the Keating government as a step aimed at developing local conditions to a point where privatisation could be more successfully realised.

While Reinecke and Schultz (1983:226) identify the Fraser Government as beginning the process of telecommunication deregulation, the phased introduction of competition (Northfield, 1994:2) accelerated under the Labor and Coalition Governments of the 1990s. First (1996) observes that both Prime Minister Keating and his successor, John Howard, firmly had the privatisation of Telstra on their respective political agendas, each waiting for the appropriate time when the market could bare it and the public would accept the change. This transformed into preparatory work developing Telecom into an organisation capable of becoming a commercially-run business and opening the market to new competition, and new regulation (Armstrong, 1991:1). When the privatisation issue finally emerged, the Howard government had the strength of its new status and the rationale of fiscal responsibility to justify the partial, then total sale of the Corporation. Debate over the issue was only tangentially related to the merits of privatising a massive government enterprise, and focused on maintaining government control over service delivery and pricing issues in the new telecommunications marketplace. What this

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456 The second generation of satellites (Optus A1, A2, and A3) were launched in the early 1990s (with the A2 exploding on launch). The idea was initially proposed in the late 1970s.
457 However, as Spurgen (1989:30–2) observes, while the technology could have been used to address the limited access of regional communities (especially aboriginal communities) the commercialisation of Telecom focused the service on the delivery of commercial networked television.
458 Telecom and Australia Post were created from the Post Master General's Department in 1974. OTC merged with Telecom in 1992.
459 This marked the end of the Australian Government's investment in large-scale satellite programs, refocussing attention on small funding projects of "micro satellites" in the 1990s (James, 1998).
460 Telecommunications, for years regulated by Telecom and the PMG's Office, became regulated by Austel (the Australian Telecommunications Authority), the Authority was split from Telecom in 1989 and is charged with promoting competition, setting technical standards, and consumer protection (Northfield, 1994:6).
change showed was the shift in the policy debate over telecommunications from that of infrastructure development to the transitional concerns associated with developing a market for telecommunications services in Australia and the need for competitive pressures to mediate monopoly power (Skeffington, 1998). While it can easily be argued that none of these issues where sufficiently resolved prior to the full privatisation of the national telephone company (Optus communications had not proven it could compete with Telstra in the area of local telephone calls by 1999), the regulatory mechanisms established to overview the activities of the telecommunications companies, such as the Australian Consumer and Competition Commission, were focused more on the maintenance of a competitive environment for telephony and the protection of consumer rights, rather than larger questions relating to the future development of communications services. Access to telecommunications had become a consumer right and expectation, not a governmental nation-building activity.

What the introduction of the telegraph and telephone into Australia shows is the importance that successive governments placed on the regulation of communications infrastructure. In both cases, the introduction required massive investments in infrastructure and the importation of technology and personnel from overseas. Moreover, while private companies were the first to establish these services in Australia, none of the colonial governments were prepared to leave their development solely to the marketplace. As these services became increasingly popular, expansion of the communications networks to smaller and smaller settlements was encouraged as a means of providing the benefit of electrical communication to most Australians. Where profits were not to be found, the use of the national monopoly allowed Federal governments to subsidise rural communications through increased costs to the cities. What is interesting to note is that the Australian government has retained its ownership of telecommunications for over one hundred and fifty years, only allowing Telstra to become essentially a private company in late 1999, following the partial introduction of another major competitor. In this period of privatisation, while the emphasis of public policy debates over the ownership of Telstra focused on maintaining services to remote areas, much of the debate focused on the issue of consumer protection from commercial malpractice, rather than the issues of infrastructure development and maintenance that motivated public ownership or acquisition by the colonial governments. This pattern of ownership is distinctly different to the manner in which broadcast communications were established under the Federal Government.

**Radio and Television Broadcasting: Subscription and Free-to-Air**

While initially radio (the ship-to-shore communication) was introduced at great expense by the Post Master General's Office for the purposes of military communication, "wireless broadcasting" has been shaped substantially by Federal government's desire to control the introduction of commercial broadcasting services. This has been achieved through a process of licensing and the official allocation of radio frequencies. This system was established in 1923 when radio was introduced into the Commonwealth on a subscription basis, after agitation from potential radiogram manufacturers for the establishment of a market for their product (Kellock, 1975:386). Broadcasters were granted licences through the office of the Postmaster General and sold "sealed sets" that would receive one station only. However, the limitations of this system became apparent when, after only ten months, lack of subscription forced the Government to

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461 This was later acquired by the military, a cost saving the PMG's Office was happy to accept.
462 Allen and Spencer (1983:9–10:15) note that this followed ongoing agitation by the Marconi company for the government to allow private radio communications stations to be established along the Australian coastline. Government refusal to allow this limited the introduction of radio until Ernest Fisk lobbied on behalf of AWA.
463 The postal service was deemed the most suitable institution to manage radio because of its existing coverage of telegrams.
introduce a new system of two radio classes, allowing "class B" stations to include advertising (rather than require subscriptions). By 1932 this system was revised and the Australian Broadcasting Company (to become the Australian Broadcasting Corporation (ABC)) was created to assume control of the remaining subscription ("class A") stations, which had been unable to successfully compete with free-to-air radio broadcasting. The establishment of the ABC was designed to improve the ability of country dwellers to receive broadcasting on a similar basis to those in the city, especially where commercially operated broadcasters could not, or would not broadcast on a commercial basis (ABCB, 1949).

While the development of Australia's dual system of radio broadcasting (public and private) was driven by entrepreneurs eager to develop an industry in Australia and government reaction to the failure of the sealed set system\(^{464}\), the introduction of television was proactively legislated for and controlled. The initial plans for the introduction of television broadcasting in Australia, under Prime Minister Chifley, followed the British model, with complete control retained in the hands of the Australian Broadcasting Commission. Under the subsequent Whitlam administration, and due to pressure from commercial interests\(^{465}\), the dual system for radio was extended, with a limited number of private television broadcasting licenses being issued in the major capitals. Unlike the introduction of commercial radio stations, which was forced onto the agenda by manufactures and retailers of radio equipment, Australian adoption of television was pressed by media interests (specifically owners of the major Australian daily newspapers eager to extend their holdings into this new technology)\(^{466}\). The cost of entry into the market, combined with the commercial synergy offered from the ownership of other media, led to the extension of newspaper ownership into the new industry, a feature that would lead to the development of the commercial networks into the national networked services currently operating in Australia (Bonney, 1987:45–7). Broadcasting in Australia, argues Marmont (1990:51–3), has a natural tendency toward ownership concentration because of the economic imperative of the industry to syndicate content and reduce the costs associated with program production (where broadcasting can be seen to have a strong public good economic characteristic). This tendency, therefore, meets regulation in an uneasy tension between industry profitability (and indirectly, the level of services provided to the viewing or listening public) and regulations aimed at preventing concentration because of non-economic motives.

The tendency towards television networking, which had similarities with AWA's domination of radio interests and is paralleled to a lesser extent in commercial radio networks, had the effect of developing the complex system of Australian media ownership regulation developed under the Hawke and Keating Labor governments (Ward, 1994:424). This system linked ownership to the control of broadcast content, and placed restrictions both on foreign ownership and domination of specific media markets. This regulatory pinnacle was the result of inevitable tensions between the cost of entry and the position of existing media companies to lever government opinion through traditional media outlets. While the social impact of media concentration is a

\(^{464}\)This was formalised in 1942 following the Gibson Committee inquiry into Broadcasting.

\(^{465}\)As Simms observers (198:243–54) in her work on Liberal party ideology in Australia, the combination of government-owned "competitors" with marketplace companies was not outside of the broad, post war Liberal ideology. Simply stated, that the marketplace was preferred over the nationalised model offered by Chifley is unsurprising, however the inclusion of government enterprise to kick start national development of the medium in "mild" competition with the commercial stations, fits well with Simms identification of an "Australianised" view of free enterprise and the capacity for a dynamic marketplace to establish within a nation with such a small population base.

\(^{466}\)According to Jacka and Johnson (1995:333) initial licences went to the Packer group (consolidated press) and the Fairfax group.
continued source of criticism\textsuperscript{467} (Western 1974:11), the relationship between existing media corporations and the introduction of new technologies has, historically, been very close, with newspaper interests quickly establishing holdings in the first radio and television licences\textsuperscript{468}, and continuing these holdings with the introduction of pay (subscription-based) television in the 1990s\textsuperscript{469}, a feat achieved in the face of wavering government views regarding the encouragement of new players into the pay television market in Australia (Tiffen, 1993:45–63)\textsuperscript{470}. Overall, regardless of government regulation, the concentration of media ownership in Australia has persisted, and the relationship between successive governments and the media barons become close (Tiffen, 1989:146–53) and closed.

While the control and licensing of broadcasting frequency and cable delivery of programming can be identified as a commercial quota system applied by government for the management of scarce, important national resources (Harding, 1984:201), this system has also been used as a means of applying another form of regulatory control over commercial media interests: the capacity to own media interests and dominate local and national markets. This system has attempted, against a historical trend, to prevent concentration of media interests into monopolies that stretch across the various range of media available within a single market (print, radio, and television) and in the hands of foreign nationals or corporations. This situation has led to a constant stream of legal and political debate over the last two decades into the issues surrounding this policy and the practicalities associated with it\textsuperscript{471}. This situation has led to two situations arising: the development of a broadcasting tribunal model\textsuperscript{472} that has failed to meet public demands for stringency in the application of existing ownership rules, and repeated government friction with media proprietors, whose commercial interests have often clashed with government regulatory intention. This last situation resulted in a broad public conflict between owners and the Government, such as that shown during the House of Representatives Select Committee on the Print Media (the Lee Committee) in 1991, where Kerry Packer used the hearings to publicly ridicule the work of the

\textsuperscript{467} Australia is commonly sited as having the most concentrated mass media in the English speaking world.

\textsuperscript{468} However, as Mayer illustrates (1973:649) this has served to offset declining sales of traditional media linked to the introduction of new technology (eg. Newspaper circulation reduction post radio and television broadcasting).

\textsuperscript{469} The licensing system of which is reminiscent of the "sealed set" system of the initial days of radio.

\textsuperscript{470} The introduction of pay television in Australia is linked the financial problems associated with the AUSSAT satellite service. While the Fraser government had been reluctant to introduce pay television into Australia, the financial problems associated with Australia's national satellite service encouraged the Labor government to combine its sale with the introduction of pay television in the 1990s. This initial policy failed to attract support as it was flawed from a commercial and technical standpoint (Jones, 1991:13) and reflected a policy with two incompatible objectives: the sale of a poorly performing asset and the introduction of a new media industry. Cunningham, 1993:341-2 notes that this issue was considerably debated in the 1980s with three separate inquiries into the issue, and concern about the practicality of introducing the media in the face of the boom of consumer videocassette rentals at the time (penetration of videocassette recorders in Australian homes grew from 0% in 1976 to 80% in 1993; Bureau of Transport and Communications Economics, 1994). Labor's handling of the pay television decision in the early 1990s was filled with policy reversals and poor implementation, and so, the final result of the policy in which existing telecommunications and media firms gained substantial control of the pay television market was, according to Tiffen, more likely the result of incompetence than intent.

\textsuperscript{471} Especially where institutional investors have wittingly or otherwise, breached the Act through complex corporate take-overs.

\textsuperscript{472} Later to become the Australian Broadcasting Authority.
committee and disparage the inquiry process. This committee served to show the inability of the Government in dealing with the large entrenched media interests (Baxt, 1992:348), and produced a report that contained little substantive change for the direction of media ownership law in Australia. This situation continued with the conversion to digital broadcasting in Australia, with existing media interests having their operations extended (and protected from new entrants) under the Federal arrangements for the introduction of digital broadcasting in 1998 and 1999. What this shows is that media owners themselves has a complex relationship with regulation, criticising that which limits their commercial aspirations, while attempting to manoeuvre other controls to protect their interests from competition or allow extension of their cross-media empires.

**Infrastructure and the Marketplace**
Comparison between the introduction and development of "land line" communications and broadcast media in Australia shows us two things: First, while governments have had varying views about the appropriate domain for the establishment of a communications technology in this country (from the direct state-ownership and control of media like postal services and telecommunications to the partially regulated commercial operations of radio and television broadcasting or the privatised marketplace of telecommunications circa the year 2000) the regulation of communications media has remained well within Gow and Maher’s concept of vertical regulation discussed in Chapter Five. While governments have taken different views about the relative merits of the marketplace to provide communications services to Australians (based upon their view of the importance of the media and the capacity of the marketplace), industry-specific regulation has shaped the development of today’s system of telecommunications and broadcasting, with government ownership of monopoly services and rival organisations (such as the ABC) as a means of overcoming the ever-present risk of market failure. This system has created a strictly limited marketplace for both telecommunications and broadcasting which, over the last twenty years has produced criticisms that have lead to increasing deregulation and a limited opening of these markets to new competitors; Secondly, what we can see in this account is that the introduction of communications services in Australia has seldom been a proactive policy decision, with commercial interests leading the way into the marketplace and governmental intervention post hoc in response to potential market imperfections, but also because of accurate perceptions of the importance of communications to any modern nation.

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473 Given (1997) has identified current media ownership laws as falling under the **Broadcasting Services Act**, the **Foreign Acquisitions and Takeovers Act** and the **Trade Practices Act**.

474 Gruen and Grattan (1993:70) illustrate changes in government policy attract strong lobbying with ownership restrictions and foreign investment limits being the source of competing threats and opportunities for existing and potential owners.
### Australia's Online Censorship Regime

#### Appendix 5.2

**Australian Computer Network Development and Regulation**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1854 Mar</td>
<td>First telegraph line opened in Australia</td>
</tr>
<tr>
<td>1877</td>
<td>First telephony in Australia</td>
</tr>
<tr>
<td>1880</td>
<td>First telephone exchange (Melbourne)</td>
</tr>
<tr>
<td>1901 Jan</td>
<td>Federation</td>
</tr>
<tr>
<td>1912 Jul</td>
<td>Introduction of the first automatic telephone exchange (Geelong, Victoria)</td>
</tr>
<tr>
<td>1914</td>
<td>War Preparations Act places legal controls on the content of films</td>
</tr>
<tr>
<td>1917</td>
<td>Commonwealth Film Censorship Board Established</td>
</tr>
<tr>
<td>1923 Jul</td>
<td>Commercial Radio Broadcasting begins in Australia</td>
</tr>
<tr>
<td>1928</td>
<td>Royal Commission recommends the establishment of the Radio duel system</td>
</tr>
<tr>
<td>1949 Nov</td>
<td>CSIRAC, first electronic computer in Australia tested</td>
</tr>
<tr>
<td>1948</td>
<td>Australian Broadcasting Control Board established to regulate radio and television</td>
</tr>
<tr>
<td>1949 Jun</td>
<td>Television “false start” under Chifley Government</td>
</tr>
<tr>
<td>1952</td>
<td>Industry pushes Menzies government to speed the introduction of commercial television</td>
</tr>
<tr>
<td>1954 Nov</td>
<td>Royal Commission recommends duel system for television</td>
</tr>
<tr>
<td>1956</td>
<td>Television begins in Australia (Melbourne Olympic Games)</td>
</tr>
<tr>
<td>1957</td>
<td>Introduction of the first commercially available computer in Australia (NEC-Elliott 405)</td>
</tr>
<tr>
<td>1959</td>
<td>First computer network established (CSRs tape-to-telex-to-tape-to-card system)</td>
</tr>
<tr>
<td>1963</td>
<td>Emergence of Commercial Media Networks linking print and television across Australia</td>
</tr>
<tr>
<td>1966</td>
<td>Mini computers available in Australia through local suppliers (DEC PDPs)</td>
</tr>
<tr>
<td>1974</td>
<td>Introduction of micro computers (desktop) in Australia</td>
</tr>
<tr>
<td>1979</td>
<td>Section 480c introduced into the Queensland Criminal Code that effectively makes access of computer systems illegal to unauthorised users (dishonest application of a possession), this section is not technologically specific</td>
</tr>
<tr>
<td>1980 Jan</td>
<td>The Northern Territory introduces sections 1, 222, and 276 into their criminal code making the unauthorised access of computer systems illegal (access with intent, unlawful receipt)</td>
</tr>
<tr>
<td>1980 Mar</td>
<td>The Australian Capital Territory criminal code is amended to cover non-authorised access of computer systems (dishonest use with intent to obtain or to cause loss)</td>
</tr>
<tr>
<td>1984 Feb</td>
<td>The Commonwealth Attorney-General directs the establishment of an inquiry into computer crime chaired by Hon Sir Harry Gibbs</td>
</tr>
<tr>
<td>1985 Aug</td>
<td>AVCC decides to establish AARNet, an Australian Internet backbone</td>
</tr>
<tr>
<td>1985 May</td>
<td>Victoria introduces the Crimes (Computers) Act making the unauthorised access of computer systems illegal (computer “trespass”)</td>
</tr>
<tr>
<td>1986</td>
<td>Tasmanian Law Reform Commission releases a paper calling for specialised computer-related criminal codes to prevent hacking</td>
</tr>
<tr>
<td>1987 Oct</td>
<td>The Commonwealth Attorney-General directs the establishment of an inquiry into computer crime chaired by Hon Sir Harry Gibbs</td>
</tr>
<tr>
<td>1987</td>
<td>The Australian publishes two articles connecting Australians to computer hacking and bulletin board systems as a key source of computer intrusion activity</td>
</tr>
<tr>
<td>1988 Nov</td>
<td>Commonwealth Crimes Act amended to make computer related crimes against Federally owned and operated machines illegal.</td>
</tr>
<tr>
<td>1989</td>
<td>The Australian publishes two articles connecting Australians to computer hacking and bulletin board systems as a key source of computer intrusion activity</td>
</tr>
<tr>
<td>1990</td>
<td>Commonwealth Crimes Act amended to make computer related crimes against Federally owned and operated machines illegal.</td>
</tr>
<tr>
<td>1991</td>
<td>Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies formed</td>
</tr>
<tr>
<td>1992 Aug</td>
<td>Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies issues its report on computer game censorship</td>
</tr>
<tr>
<td>1993</td>
<td>Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies issues its report on computer game censorship</td>
</tr>
<tr>
<td>1994 Mar</td>
<td>Federal Bulletin Board Task Force established by Attorney-General Lavarch</td>
</tr>
<tr>
<td>1994 May</td>
<td>Electronic Frontiers Australia Inc formed</td>
</tr>
<tr>
<td>1994 Aug</td>
<td>Department of Communications and the Arts seeks submissions to the BBS Task Force</td>
</tr>
<tr>
<td>1994 Oct</td>
<td>Department of Communications and the Arts releases the “Creative Nation” statement advocating the uptake of new media</td>
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</tbody>
</table>
### Australia's Online Censorship Regime

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
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<tbody>
<tr>
<td>1995</td>
<td><strong>Nov</strong></td>
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<td></td>
<td><strong>Dec</strong></td>
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<td><strong>Jan</strong></td>
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<td><strong>Feb</strong></td>
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<td><strong>May</strong></td>
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<td><strong>Jul</strong></td>
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<td><strong>Aug</strong></td>
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<td><strong>Oct</strong></td>
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<tr>
<td></td>
<td><strong>Nov</strong></td>
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<tr>
<td></td>
<td><strong>Dec</strong></td>
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<tr>
<td>1996</td>
<td><strong>Jan</strong></td>
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<tr>
<td></td>
<td><strong>Mar</strong></td>
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<tr>
<td></td>
<td><strong>Apr</strong></td>
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<td></td>
<td><strong>May</strong></td>
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<td></td>
<td><strong>Jun</strong></td>
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<td></td>
<td><strong>Jul</strong></td>
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<td><strong>Aug</strong></td>
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<tr>
<td></td>
<td><strong>Sep</strong></td>
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<tr>
<td></td>
<td><strong>Oct</strong></td>
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<td></td>
<td></td>
</tr>
</tbody>
</table>
### Australia's Online Censorship Regime

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mar</strong></td>
<td>60 Minutes Australia features pornography on the Internet</td>
</tr>
<tr>
<td></td>
<td>The Online Council established to provide a forum for Commonwealth, State and Territory Government Ministers and local government representatives to consider agreements related to a national strategic approach for the use of information and communication services</td>
</tr>
<tr>
<td><strong>Apr</strong></td>
<td>Senate Select Committee holds Public Hearings in Brisbane</td>
</tr>
<tr>
<td><strong>May</strong></td>
<td>Senate Select Committee holds Public Hearings in Canberra</td>
</tr>
<tr>
<td><strong>Jun</strong></td>
<td>Report on Regulation of Computer On-line Services Part 3 released by the Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies</td>
</tr>
<tr>
<td><strong>Jul</strong></td>
<td>The Commonwealth government announces a proposed national framework to regulate the Internet and called for public comments on the proposal</td>
</tr>
<tr>
<td></td>
<td>Daryl Williams establishes an advisory group to report on the regulation of electronic commerce</td>
</tr>
<tr>
<td></td>
<td>The Internet Industry Association of Australia and the Australian Internet Association merge to become the Australia Internet Council (later the Internet Industry Association)</td>
</tr>
<tr>
<td><strong>Aug</strong></td>
<td>The Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies replaced by a new Committee, the Senate Select Committee on Information Technologies</td>
</tr>
<tr>
<td><strong>Sep</strong></td>
<td>The Prime Minister announces the establishment of the National Office of the Information Economy (NOIE) to examine regulatory issues related to online activities (including content regulation)</td>
</tr>
<tr>
<td><strong>Nov</strong></td>
<td>IIA appoints Peter Coroneos as its first full-time executive director</td>
</tr>
<tr>
<td><strong>Dec</strong></td>
<td>The Senate Select Committee on Information Technologies announced its first inquiry into Self-Regulation in the Information and Communications Industries</td>
</tr>
<tr>
<td></td>
<td>The Standing Committee of Attorneys-General reaffirms that criminal sanctions will apply to people who place offensive or illegal material on the Internet. In addition, the Commonwealth legislation will not give immunity to Internet Service Providers from liability</td>
</tr>
</tbody>
</table>

**1998**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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</thead>
<tbody>
<tr>
<td><strong>Feb</strong></td>
<td>The Senate Select Committee on Information Technologies hold hearings in Canberra, Sydney and Melbourne</td>
</tr>
<tr>
<td><strong>Apr</strong></td>
<td>Advisory group releases the report on electronic commerce</td>
</tr>
<tr>
<td><strong>July</strong></td>
<td>NOIE releases a post consultation summary paper stating interest in extending the role of the ABA in the regulation of online content</td>
</tr>
</tbody>
</table>

**1999**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Mar</strong></td>
<td>Senator Richard Alston announces the government intends to introduce legislation to regulate Internet content, identifying the ABA as body to be charged with administering the regime including provisions for filtering overseas content</td>
</tr>
<tr>
<td></td>
<td>EFA announces the appointment of its first executive director Darce Cassidy</td>
</tr>
<tr>
<td></td>
<td>The Senate Select Committee on Information Technologies reconvened to examine the proposals of the government</td>
</tr>
<tr>
<td><strong>Apr</strong></td>
<td>The Broadcasting Services Amendment (Online Services) Bill 1999 is introduced into the Senate and referred to the Senate Select Committee on Information Technologies</td>
</tr>
<tr>
<td></td>
<td>Moves to extend the reporting date of the Senate Select Committee on Information Technologies is defeated</td>
</tr>
<tr>
<td></td>
<td>The Senate Select Committee on Information Technologies holds four days of hearings in Canberra</td>
</tr>
<tr>
<td><strong>May</strong></td>
<td>The Senate Select Committee on Information Technologies reports to the Senate (majority report, qualifying comment and two minority reports tabled)</td>
</tr>
<tr>
<td></td>
<td>Senator Brian Harradine announces his decision to oppose the New Tax System package of legislation</td>
</tr>
<tr>
<td></td>
<td>The Broadcasting Services Amendment (Online Services) Bill debated in Senate</td>
</tr>
<tr>
<td></td>
<td>Government and Labor moves amendments to the Bill</td>
</tr>
<tr>
<td></td>
<td>Government and one Labor Amendment pass Senate Committee of the whole, Senate passes Bill (34 votes to 32), Greens, Democrats and Labor vote against the Bill</td>
</tr>
<tr>
<td><strong>Jun</strong></td>
<td>Electronic Frontiers Australia holds its National Day of Action street protests</td>
</tr>
<tr>
<td></td>
<td>Bill enters the House of Representatives</td>
</tr>
<tr>
<td></td>
<td>Bill Enacted</td>
</tr>
<tr>
<td><strong>Aug</strong></td>
<td>IIA releases its fifth draft code of practice for consultation</td>
</tr>
<tr>
<td><strong>Sep</strong></td>
<td>State Governments release Draft Enforcement Provisions for Internet content for consultation</td>
</tr>
<tr>
<td></td>
<td>ISOC-AU appoints its first executive director Tony Hill</td>
</tr>
<tr>
<td><strong>Dec</strong></td>
<td>IIA Code of Practice accepted by the ABA as an industry standard</td>
</tr>
<tr>
<td><strong>2000</strong></td>
<td>Broadcasting Services Amendment (Online Services) Act comes into force.</td>
</tr>
</tbody>
</table>
Appendix 5.3
Content Analysis Results

Overview
The aim of the content analysis project outlined in this Appendix was to quantify the level of negative press coverage of computer networking issues in Australian newspapers over the ten years to 1998. According to the theory discussed in Chapter Five, proof of the presence of a moral panic is attributed to a number of factors, with the role of the media in over-reporting and misrepresenting the extent of any actual problem as signalling of an elite-driven hysteria. In this case, it was difficult to determine that a panic existed, or had been the cause of the regulatory approaches undertaken during the years 1995–6, without the examination of the extent (as opposed to the content of individual reports) of unfavourable media coverage of computer networking issues. The study was undertaken using a basic search of the Reuters Online news service indexed to the major Australian papers and news-wire services\textsuperscript{475}, using the Swift content analysis program\textsuperscript{476}. This study was undertaken to identify the relative and absolute amounts of negative media coverage of computer networking issues over the ten year period.

Results
The table and figure below represent the amount of press coverage identified as negative in character (as coded into three categories: Criminal Activities, Pornography and Child Pornography / Abduction, and Warnings about computer networking / Regulation of networks). The results indicate that, while the relative amount of negative coverage of computer networking issues increased over the period 1995–8\textsuperscript{477}, this change has come off an extremely small base and no trends can be identified. Certainly it is not possible to conclude that there has been any over-reporting of the negative aspects of computer networks or a disproportionate coverage of dangers or risks associated with them (computer cracking, phreaking, carding, stalking, paedophilia).

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Number of Reports</th>
<th>Number Identified as Negative</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>19</td>
<td>2</td>
</tr>
<tr>
<td>1996</td>
<td>109</td>
<td>2</td>
</tr>
<tr>
<td>1997</td>
<td>416</td>
<td>8</td>
</tr>
<tr>
<td>1997(–Aug)</td>
<td>349</td>
<td>9</td>
</tr>
</tbody>
</table>

Figure: Negative News Reports of Computer Networking, by sub-category


\textsuperscript{476}SWIFT 3.0 (Structured Word Identification and Frequency Table) was developed by Ronald Heady designed to allow for the basic interrogation of a large number of short records (in this case SWIFT was ideal for the series of short records provided by the Reuters service). The program allowed for the identification of a number of keywords, and paragraphs, which can be classified into categories.

\textsuperscript{477}Prior to this date there is limited mainstream media coverage of computer networking issues.
Australia's Online Censorship Regime

Coding Frame

The SWIFT program allows the research to develop a coding frame to be applied to the source text to be analysed. For the purposes of the analysis of the Reuters news service, the coding frame reproduced below was used. It must be noted that the SWIFT program simply counts the appearance or absence of particular words or phrases in each unit of text (the news articles) and therefore the approach is simply concerned with the measurement of manifest content. Three key categories were used ("Crime", "Porn", and "Warning"), each with a range of subcategories containing keywords and key phrases.

**Computer Article Analysis Schema**

**Category=Crime**
- **SubCat=Hacking**
  - KeyWords=HACK HACKER HACKING HACKERS CRACK CRACKER CRACKING
  - KeyPhrase=COMPUTER INTRUSION
  - KeyPhrase=DATA THEFT
- **SubCat=Phreaking**
  - KeyWords=PHREAK PHREAKING PHREAKS
- **SubCat=Carding**
  - KeyWords=CARDING
  - KeyPhrase=SALMI SLICING
  - KeyPhrase=CREDIT CARD NUMBERS
- **SubCat=Stalking**
  - KeyWords=STALKING STALKER STALK
- **SubCat=Law enforcement**
  - KeyWords=POLICE COPS
  - KeyPhrase=LAW ENFORCEMENT

**Category=Porn**
- **SubCat=Porn**
  - KeyWords=PORN PORNOGRAPHY X-RATED XXX PLAYBOY
- **SubCat=Smut**
  - KeyWords=SMUT SMUTTY
- **SubCat=Child Porn**
  - KeyWord=PAEDOPHILIA PAEDOPHILE
  - KeyPhrase=CHILD PORN
  - KeyPhrase=KIDDY PORN
  - KeyPhrase=ROCK SPIDER
  - KeyPhrase=SEXUAL PREDATOR

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478 A number of heading comments have been omitted and tabulation included to delineate between categories, subcategories, keywords and key phrases.
Australia's Online Censorship Regime

Category=Concerns
  SubCat=Warning
    KeyWords=WARN WARNING
  SubCat=Censorship
    KeyWords=CENSOR CENSORING CENSORSHIP
  SubCat=Regulation
    KeyWords=BAN BANNING BANNED REGULATE REGULATION REGULATING
    LEGISLATE LEGISLATING LEGISLATION
    KeyPhrase=NEW LAW
    KeyPhrase=NEW BILL
Appendix 7.2

List of Interviewees

Mr Philip Argy
Vice Chairman, Ethics / Legal & Standards, The Australian Computer Society (NSW Branch), Sydney.

Mr Karl James Auer
†

Senator Mark Bishop
Senator representing the Shadow Minister for Communications; Senator for Western Australia (ALP), Canberra.

Ms Carina Chapman
Former Adviser to the Honourable Senator Richard Alston, Sydney.

Mr Peter Coroneos
Executive Director, The Internet Industry Association, Canberra.

Senator Jeannie Ferris
Chair Senate Select Committee on Information Technology; Senator of South Australia (Lib), Canberra.

Mr Richard Frawley
Former Manager, Internet Industry Association of Australia Limited, Sydney.

Sir Harry Gibbs

Mr David Goldstein
* Officer, Australian Broadcasting Authority, London.

Ms Irene Graham
Board Member, Electronic Frontiers Australia, Brisbane.

Senator Brian Harradine
Member, Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies; Member, Senate Select Committee on Information Technologies; Independent Senator for Tasmania, Canberra.

Mr Terry Harvey

Mr Kimberly Heitman
Chair, Electronic Frontiers Australia; Spokesperson, Western Australian Internet Association, Perth.

The Honourable Gary Humphries MLA
ACT Deputy Chief Minister; Attorney General; Minister Assisting the Treasurer; Minister for Justice and Community Safety; Member of the Legislative Assembly (Lib), Canberra.

Ms Laurel Johnson
Assistant Secretary, Criminal Justice Branch, Commonwealth Attorney-General's Department, Canberra.

Mr Jeremy Jones
Executive Vice-President, Executive Council of Australian Jewry, Sydney.

Ms Toni Jupe
Communications and Media Manager, Young Media Australia, Adelaide.

Ms Kaaren Koomen
Group Manager, Multimedia Policy and Regulation; Optus Communications, Former Manager, Online Services Investigation, The Australian Broadcasting Authority; Former Vice-President, NSW Council for Civil Liberties, Sydney.

The Honourable Michael Lavarch
Former Commonwealth Attorney-General (ALP), Brisbane.

The Honourable Michael Lee MP
Shadow Minister for Education; Former Federal Minister for Communications and the Arts 1994–1996; Member for Dobell (ALP), Canberra.

Senator Kate Lundy
Shadow Minister for Sport, Youth Affairs and Assisting on Information Technology; Member, Senate Select Committee on Information Technologies; Senator for the Australian Capital Territory (ALP), Canberra.

Mr Peter Merel †
Former Chair, General Products Limited, The United States of America.

Mr Steven Nugent
Manager, Special Projects, Australian Broadcasting Authority, Sydney.

Ms Fiona Patten
President, Eros Foundation, Canberra.

Senator Margaret Reynolds
Chair (1991–2, 1993–6), Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies; Member, Senate Select Committee on Information Technologies; Senator for Queensland (ALP), Canberra.

Ms Debra Richards
Executive Director, Australian Subscription Television and Radio Association; Former Adviser to the Honourable Michael Lee MP; Former Officer, The Australian Broadcasting Authority, Sydney.

Mrs Marion Smith
Convenor, Social Issues Committee, Presbyterian Women's Association (NSW), Sydney.

Mr Brian Stewart
Deputy Leader, The Australian Democrats; Member, Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies; Member, Senate Select Committee on Information Technologies; Senator for South Australia (Dem), Canberra.

Senator John Tierney PhD
Chair (1996–7), Senate Select Committee on Community Standards Relevant to the Supply of Services Utilising Electronic Technologies; Member, Senate Select Committee on Information Technologies; Senator for New South Wales (Lib), Canberra.

Ms Monika Tomasek ‡
Former SysOp, Sydney.

Mr Peter Upton
Executive Director, The Australian Information Industry Association, Canberra.

Mr Alan Wakeley
Australian Representative, The Religious Alliance Against Pornography, Sydney.

Mr Tom Worthington
Past President, The Australian Computer Society; Former Internet Society of Australia Board Member, Canberra.

Mr Danny Yee
Board Member, Electronic Frontiers Australia, Sydney.

Two Interviews
† Via Email correspondence (see Chapter Five)
‡ Denotes Joint Interview
Via Telephone Interview
* Via WWW Interview facility (see Chapter Five)
Not included in the ACF Sampling Universe (see Appendix 6.1)