

# IAB South Africa panel discusses Free Speech in the Digital Age

The Interactive Advertising Bureau (IAB) South Africa, formerly the DMMA, convened a panel discussion on 'Free Speech in the Digital Age' to debate how we strike the balance between safety and freedom of speech on the Internet and can good intentions muffle constructive content?

## **Opposing experts**

The panel brought together experts that represented different views on the contentious topic.

Sipho Risiba, COO, Film and Publications Board (FPB), was present to defend the classification body's draft Online Regulation Policy and the Department of Communication's proposed Films and Publications Amendment Bill, while Justin Spratt, head of business, Sub-Saharan Africa at Uber provided arguments against it.

As public policy & government relations manager for Google South Africa, Fortune Mgwili-Sibanda was able to speak in detail about the nature of content being indexed locally while Ant Brooks - special advisor to the Internet Service Providers' Association (ISPA) and founding member of the Future Foundation provided deep insight on the involvement of ISPs in the regulation of content.

Head of regulatory affairs for IAB SA, Andrew Allison, who has been instrumental in representing the IAB in its engagements with the FPB and the Department of Communications on the subject of online content regulation, facilitated the panel.



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## **How policy will impact regulation**

Risiba argued that there has been confusion over the true nature of the FPB's policy. "There is a feeling that the FPB is trying to regulate the internet. However, we are regulating the behavior on the internet, not the platform. The FSB clearly distinguished between commercial and non-commercial players. In terms of commercial legislation, this will extend primarily to films and games. Non-commercial content will be monitored through complaints.

“The key lies in self-regulation, with the Online Regulation Policy providing a framework for uniformity of standards. Collaboration between all parties, so that the FPB does not prescribe what content is harmful, but works with the industry to self-regulate is essential.”

Brooks noted that self-regulation is nothing new. Since 2002, any member of the public can approach ISPA to remove offensive or illegal content. Awareness of this is growing, as 246 notices were lodged in 2015, and 249 notices were lodged in 2016. Most of the time, these notices deal with copyright infringement.

## **How big is the harmful content problem?**

Spratt argued that the need for regulation only applies to fringe cases. Most commercial content creators are incentivised to self-regulate already. The open web is, as a result, very clean. The problem lies in the dark web, where communication is concealed over SMS, WhatsApp or Snapchat. Brooks added that the largest collective host of pornography is not Google (as the Department had previously claimed) or any other search engine, but ordinary individuals taking their own pictures. Any attempt at regulation spawns unintended consequences. What pornography is being regulated – transmission or one-to-one? If South Africa chooses to regulate one-to-one material, does that mean the legislation reaches beyond the internet and into GSM technology?

## **Digital literacy is critical**

Children are accessing the internet on mobile phones from a young age, 80% of them doing this on a device they own. While classification will help impede the publishing of local, harmful content, the education of the public is paramount. Mgwili-Sibanda said, “If you read our [Google’s] online community guidelines and the [South African] Constitution, you will find they read almost word for word. We all agree on the limitations of free speech and there are no vast differences in what different countries view as bad content. With 600 hours of content uploaded every minute, digital literacy should be at the core of helping the public to use the Internet constructively.”

In support of this argument, he used the example of Google working with schools to educate them on the safe use of the Internet. On this point Spratt added, “Digital literacy is currently funded by private companies. This is something the government needs to get involved in. It has been proven that just a 10% boost in Internet access adds to GDP growth. In this sense, the internet is a positive force and, with increased access to the right content, our continent will be unstoppable.” Mgwili-Sibanda echoed this sentiment, citing the example of Saudi Arabia that saw an increase in foreign investment when it introduced online regulation and digital literacy in the country.

## **Education extends beyond the classroom**

It is not only the youth of South Africa that need to improve their digital literacy. Legislators at a ministerial and departmental level need to understand the space so they can regulate effectively. A law enforcement manual is being compiled by the FPB to ensure that cases are not struck off the roll because the legislators do not understand the nuances of the policy.

Teachers need to be educated, as do parents. While some devices are created for kids, many log into their parents phones using their credentials. The device recognises the user as an adult, which gives them access to restricted content.

## Impact of regulation on business

Brooks voiced a concern about the impact legislation will have on the growth of small businesses. After running a workshop for ISP businesses, he found that – individually – laws and legislative obligations may not be themselves overly problematic, but combined they made the barrier to entry too high for a new ISP business to succeed without significant difficulty. Risiba acknowledged that the fee structure for small businesses needs to be reviewed and that the FPB is currently doing a study with the University of Pretoria.

The panel was a constructive discussion that affirmed that, while the industry may not yet have all the answers as to how best to regulate (or not) content in an increasingly online South Africa, the FPB is open to discussion and collaboration and there is a genuine willingness on the part of business to play a role too.

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