

CHRISTMAS ISLAND INTERNET ADMINISTRATION LIMITED
Notice Regarding AUP Complaint Version 1.1

Complainant:

(Name removed after numerous threatening emails and messages received.)
Poon Saan, Christmas Island
Indian Ocean

Copy to registrant : name removed at registrants request

This letter is to confirm that we have received your AUP Complaint Form dated January 11 2004.

Reference Number: goatse.cx.11.01.2004

CONTEXT OF REVIEW

CIIA supports the free flow of information via the Internet. CIIA cannot and does not actively monitor or censor the content of websites which end in the two letter suffix ".CX".

On payment of the Registration Fee and registration of the Domain, the Registrant is entitled to a licence for the exclusive use of the Domain for the term of the registration no other party will be permitted to register the same Domain and the Registrant will have an exclusive licence for use of the Domain, subject to any order of a court in an applicable jurisdiction to the contrary, so long as the Registrant pays the Domain fees, and complies with all CIIA Policies and the CIIA Registration Agreement.

The CIIA registration agreement stipulates that "*The Registrant shall not use, display, exploit, or register a Domain in any manner which may constitute illegal activity or be in contravention or violation of CIIA Policies*".

CIIA will not resolve, or in any other way become involved in, a dispute between a Registrant and a third party (e.g., CIIA will not act as an arbiter or mediator of a dispute). Moreover, CIIA will not suspend or cancel a Domain, transfer registration of a Domain, nor place a Domain on hold without a court order so directing, or without the Registrant's voluntary relinquishment or transfer of the Domain, ***unless the use of the Domain is deemed at the sole discretion of CIIA, to be a violation of the provisions and requirements of the AUP and terms of use of the CIIA Network.***

Broadly speaking, CIIA may act to *immediately* suspend access to and use of the CIIA network under the following three circumstances.

1.) When there is a compelling interest to act to protect the "*public or common interest*". By way of example CIIA will act immediately to restrict access to the CIIA network to any entity which is involved in the spread of child pornography or which is using the CIIA network to incite violence or encourage or facilitate acts of terrorism.

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2.) When there is clear evidence that "*the CIIA network is being used to encourage or facilitate unlawful activity*". By way of example CIIA will act immediately to restrict access to the CIIA network if name resolution by CIIA is facilitating the downloading of illegal software or music.

3.) If a registrants use of the CIIA network subjects CIIA to liability. CIIA does not desire to second-guess the courts in the event of disputes between parties, however CIIA will take action to suspend when there irrefutable evidence provided of copyright or trademark violation or clear and substantial abuse of protected intellectual or other property rights.

These three points are summaries only and are not exhaustive; please see the CIIA AUP, Registration Agreement and Dispute policy for more detail.

In other more subtle cases the registrant will be given an opportunity to respond to the AUP complaint to challenge or otherwise respond to the assertions in the complaint. A registrant through this process is provided with "*an opportunity to cure the breach*" - make any modifications or adjustments to the use of the CIIA network as is deemed necessary to align the use with CIIA policies.

INITIAL EVALUATION BY CIIA

On receipt of an AUP complaint CIIA performs an initial evaluation to determine whether there is a compelling need to act immediately to protect the public or common interest, to protect CIIA from potential liability or to enforce CIIA policy.

In the case of *goatse.cx* an initial review indicates that the registrant's use of the CIIA network is in violation of the CIIA AUP. Specifically sections 4 and 5 of the **Compliance with Law** section and, although the complaint did not specifically address them, sections relating to electronic mail and messaging.

4. Communication, publication or distribution, either directly or by way of embedded links, of images or materials where that communication, publication or distribution would constitute a criminal offence pursuant to the laws of the Commonwealth of Australia or the Territory of Christmas Island, including but not limited to pornographic material and images or materials that are obscene or indecent or any data that is or has been intentionally constructed to be manipulated into obscene or indecent images or material, whether incorporated directly into a .CX web site utilizing a .CX Domain, or made accessible via a link on a .CX Domain.

5. Communication publication or distribution of adult or obscene content or images by way of embedded links in unsolicited email, postings to news groups, internet forums, notices to instant messaging programs,

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where the internet user is not explicitly made aware that by clicking on the link they would be directly exposed to adult or obscene content.

I appreciate that the Christmas Island community takes immense pride in it's natural beauty - of which the spinning dolphins are an important part, and note that the links to the dolphin sex web site would have been highly offensive to the users of the IT Centre, particularly children.

As the link clearly constitutes a breach of the spirit and letter of the terms of use which prohibits "*Communication, publication or distribution, either directly or by way of embedded links, of images or materials where that communication, publication or distribution would constitute a criminal offence*"

As you will note from the attached "nationmaster" article, goatse.cx is a well know "shock site" which is intended (one can assume) to be humorous. Although we have received numerous informal complaints, most have raised objections to the images. Although the images could generally be considered to be are offensive and crude, they do not represent child (or other forms) of illegal pornography. By internet standards the imagery - although intentionally offensive, is relatively tame.

The intentional posting of embedded links (without useful disclaimer) to a site which contains obscene or adult content is a violation of the CIIA AUP and terms of use of our network.

Generally CIIA prefers to work with registrants to cure minor breaches which may have occurred or which they may not be aware of. Registrants are generally given an opportunity to cure a breach before a final decision on an AUP complaint is made.

In the case of goatse.cx which contains only two prominent links at the bottom of the site (one of which is to the dolphin sex site) it is hard to fathom that the registrant was not aware that this would not constitute a violation of the AUP.

As noted in the attached article goatse.cx is not a "passive web site" - an home page or the like, but one of the Internets more popular shock sites - it is common practice for many "internet trolls" and third parties to embed hidden links to this site.

There is compelling anecdotal evidence to suggest that most viewers to this site are in some way "tricked" into viewing it, and there can be no doubt that the object of site is to offend the viewers, many of which may be minors. The registrant provides advice that he has received legal advice which has recommended he place a warning on his site, yet this warning appears directly above, and in clear view of an image he himself suggests legally requires a disclaimer.

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This being the case I have asked Brad to suspend the site immediately pending further review and notification of the registrant.

There can be no doubt that will be viewed by some as "censorship" and a restriction of "freedom of speech", however the board has specifically drafted polices which give CIIA latitude to (act in the absence of a court order) when there is a compelling public interest in doing so (prevent the spread and publication of child pornography or other unlawful activity). The "freedom of speech" does not extend to use of our community owned network to facilitate unlawful activity or to intentionally harass or offend internet users.

This letter and your initial complaint will be posted at:

<http://www.cia.cx/cx.archive.complaints.cfm>

WHAT HAPPENS NEXT

This AUP Complaint will be forwarded to the registrant for his comments.

The Registrant has 60 days to reply – until March 12th 2004. If no reply is received by that date the domain will be permanently suspended.

Once a reply is received from the registrant it will be posted on the CIIA website and copied to the complainant and the registrant.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Garth Miller", with a stylized flourish underneath.

Garth Miller
Monday, January 12, 2004
Copy: Chris Bolden