

## **JASA MEDIA RELEASE INTERNET PORNOGRAPHY BILL**

**There follows a Media Statement put out by the Department of Home Affairs following a 90 minute breakfast meeting with the Deputy Minister yesterday when John Smyth and Brendan Studti presented the BILL we had drafted and our legal OPINION on the constitutional issues. These will be posted on the JASA website in the next 24 hours.**

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**Att: News Editors, Journalists  
Wednesday, 26 May 2010**

### **Media Statement**

#### **Gigaba meets Justice Alliance of South Africa on their proposed Bill to ban pornography**

The Deputy Minister of Home Affairs, Hon. Malusi Gigaba, today, met with the Justice Alliance of South Africa (JASA) represented by John Smyth QC and Brendan Studti.

The meeting is part of the Deputy Minister's ongoing work in providing stewardship to the Film and Publication Board (FPB), a government classification authority under the Department of Home Affairs.

John Smyth presented the draft bill and the legal opinion on the constitutional issues related to the bill.

The Internet and Cell Phone Pornography Bill proposes that pornography be filtered out at the tier one service providers to avoid it entering the country. The Bill is aimed at the total ban of pornography on internet and mobile phones. United Arab Emirates and Yemen already have legislation in this regard. Australia and New Zealand are currently seeking to do so.

It was noted that unlike in the physical world where a reasonable effort can be made for pornography to be kept away from children, in the online world, pornographic sites are often parked deliberately next door to educational sites, often with names almost identical.

The current legislation, particularly the Film and Publication Act, provide of the ban of child pornography whereas the proposed Internet and Cell Phone Bill provides for the total ban of pornography on these electronic channels using the wider definition of pornography already available in the Sexual Offence Act.

There is clear evidence of the constitutionality of such an exercise as expressed in the constitution that, "A child's best interests are of paramount importance in every matter concerning the child." Hence other rights such as freedom of expression can not be seen to be absolute. They have to be weighed against the interests of children.

The Deputy Minister briefed JASA about the request he had made to the Law Reform Commission (LRC) to provide advice on the possibility of legislating against pornography on the internet, television and mobile phones. The Deputy Minister awaits the response of the LRC, who are currently doing research on the matter.

Mr Gigaba commended the Dstv subscribers who rejected the introduction of the 24 hour pornography channel when it was mooted 2 months ago. He further commended Top TV shareholders for committing to exclude pornography in their offerings as iterated by Top TV CEO, Vino Govender (in a tv interview on 03 May 2010).

Mr Gigaba said, "Cars are already provided with brakes and seatbelts, it is not an extra that consumers have to pay for. There is no reason why the internet should be provided without the necessary restrictive mechanisms built into it."

It was agreed that JASA will have another meeting with the Film and Publication Board (FPB) to explore the matter of the draft Bill further. The draft Bill will provide input to the process already underway at the LRC towards the total ban of pornography on the internet.

Issued by the Office of the Deputy Minister of Home Affairs

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