

Acceptable Use Policy

Important Note: ECN Pty Ltd and its distribution affiliates (**ECN**) may revise this Acceptable Use Policy (**Policy**) from time to time by posting a new version of this document on the ECN website: <http://ecn.net.au/>. Later versions of this policy will be effective on the date nominated in the posting but not before thirty (30) days have expired from the date of the posting unless ECN considers (in its sole discretion) that a period shorter than thirty (30) days is necessary or appropriate to protect the integrity or security of the ECN service or network. Users of any ECN service (**User**) should regularly consult this policy. In the event of a conflict between the term(s) of any agreement terms between a User and ECN and this Policy, the term(s) of the Policy will take precedence to the extent of any inconsistency. Questions regarding this Policy and complaints of violations of the Policy by other ECN users can be directed to Customer Support at support@ecn.com.au.

The ECN services (**Service(s)**) allows customers to connect to the internet (**Customers**). This Policy applies to Users' of the Services.

1. Illegal Activity
2. The Services must only be used for lawful purposes and activities. ECN prohibits any use of our website/network and the transmission, storage and distribution of any material or content using our network, in a manner that violates any law or regulation. You must not use the Service for any prohibited activity including any activity determined by ECN as a prohibited activity, from time to time which includes any activity that violates any local, state, federal or international law, order or regulation. Prohibited activities include, but are not limited to:
 - (a) Posting, disseminating or in some cases accessing material which is without limitation unlawful or which includes but is not limited to:
 - (b) excessively violent or sexually violent material;
 - (c) real depictions of actual sexual activity;
 - (d) obscene material; and
 - (e) content not subject to a restricted access system which complies with criteria determined by the relevant Australian authority.
 - (f) Disseminating material which violates the copyright or other intellectual property rights of others. Users assume all risks regarding the determination of whether material is in the public domain.
 - (g) Pyramid or other illegal soliciting schemes.
 - (h) Any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature.
- 3.
4. Fair Use
5. Customers must comply with any bandwidth capacity management measures, data usage and/or transfer protocol management measures, or other limitations, which ECN may impose from time to time. Failure to comply with these rules may result in the Customer's service being restricted, suspended or terminated, in ECN's reasonable discretion.
6. Fair use is determined by the volume of Users using the Services and what is fair use will be determined depending on overall demand on the Services. Fair Use assessments shall be determined by ECN on a case by case assessment in any one situation.
7. ECN reserves the right to manage its network, any Service and/or network services to optimize its efficiency for the benefit of all ECN Customers and Users of the Service. Management will be done in the form of:
 - (a) rate limiting (speed);
 - (b) transfer protocol filtering and/or limiting (e.g. throttling bit torrents);
 - (c) rejecting or removing spam or otherwise unsolicited bulk e-mail, anti-virus mechanisms, etc.; or;
 - (d) taking any other action deemed appropriate in order to help ensure the security of the network and Services and protect the integrity of the network experience for all Customers.

8. ECN will manage bandwidth usage to the best of its ability during peak periods, however, it remains a best effort Service.
9. ECN reserves the right to limit the number of emails that Customers may send in any given period or to limit the total message volume (amount of data) sent or received over any period of time.
10. Customers may not:
 - (a) create or place an unusually large burden on the network, including, without limitation, continuously uploading, or downloading, or streaming video, or audio;
 - (e) perform continuous uploading or downloading, or otherwise generating levels of traffic sufficient to impede other Customers' ability to send, or retrieve information; or
 - (f) use the services in an excessive or unreasonable or abusive manner in connection with any unlimited or uncapped packages, options or promotions.
11. Customers may not use the service for unattended automated operation. Customers may stay connected as long as you are actively using that connection. Customers further agree not to use internet applications for the purpose of simulating network activity to avoid session inactivity disconnections.
12. Unless a Customer's agreement with ECN provides for it, Customers may not resell any services, receive any charge or benefit for the use of any services or provide internet access or any other feature of the services to any third party, or in any other way exploit the service for any commercial purposes. For example, a Customer cannot provide internet access to others through an ADSL, fibre, wireless or other connection.
13. Security
14. You are responsible for any misuse of the Service, even for example, if the misuse was committed by a friend, family member, guest, employee or Customer with access to your Service. You are also responsible for any misuse of your Service regardless of whether the misuse was with or without your consent. Therefore, you must take steps to ensure that others do not gain unauthorised access to your Service.
15. The Service must not be used to breach the security of another user or to attempt to gain access to any other person's computer, software or data, without the knowledge and consent of such person. It also must not be used in any attempt to circumvent the user authentication or security of any host, network or account. This includes, but is not limited to, accessing data not intended for you, logging into or making use of a server or account you are not expressly authorised to access, or probing the security of other networks. Use or distribution of tools designed for compromising security (such as password guessing programs, cracking tools, packet sniffers or network probing tools) is prohibited.
16. You must not disrupt the Service or ECN network through which the Service is provided (the "ECN network" being the ECN networks and its constituent parts including both software and hardware). The Service also must not be used to interfere with computer networking or telecommunications services to any user, host or network, including, without limitation, denial of service attacks, flooding of a network, overloading a service, improper seizing and abuse of operator privileges and attempts to "crash" a host. The transmission or dissemination of any information or software which contains a virus or other harmful feature also is prohibited.
17. You are solely responsible for the security of any device you choose to connect to the Service, including any data stored on that device. In particular, ECN recommends against enabling file or printer sharing of any sort. ECN recommends that any files or services you do choose to make available for remote access be protected with a strong password or as otherwise appropriate.
18. Inappropriate Content
19. There may be content on the internet or otherwise available through the Service that may be offensive to some individuals, or inappropriate for children. For example, it is possible to obtain access to content that is pornographic, offensive and/or unsuitable for children. ECN assumes no responsibility for the content contained on the internet or otherwise available through the Service. You must assume the risk of accessing content through the Service, and ECN shall have no liability for any claims, losses, actions, damages, suits or proceedings arising out of or otherwise relating to access to such content. Parents may want to use a program capable of restricting access to sexually explicit material on the internet. However, one of the ways of minimizing the

risk of accessing illegal or offensive content as well as managing children's use of the internet is to use a filter software product.

20. You are solely responsible for any information which you publish on the web or other internet services. ECN reserves the right to refuse to post or to remove any information or materials, in whole or in part, that it, in its sole discretion, deems to be offensive, indecent, or otherwise inappropriate regardless of whether such material or its dissemination is unlawful. This includes, but is not limited to: obscene material, fraudulent or deceptive statements, threatening, intimidating or harassing statements, or material which violates the privacy rights or other property rights (copyrights or trade marks, for example) or is likely to be defamatory of another person. For the purposes of this Policy, "material" refers to all forms of communication including narrative descriptions, graphics (including photographs, illustrations, images, drawings and logos), executable programs, video recordings, and audio recordings. Where legislation allows an Australian authority to direct ECN to remove certain prohibited or potentially prohibited content from its servers or prevent users from accessing certain internet content ECN may take any steps necessary in order to ensure compliance with any relevant industry code of practice, notification or direction from any Australian authority, including removing any content (including part or all of a website) from its servers, closing or suspending a Customer account, filtering the internet content made available to a Customer or restricting access to a particular website. ECN may take these steps at any time and without notice to the Customer.
21. ECN is under no obligation to monitor transmissions made on the Service. However, ECN or its agents, have the right to monitor such transmissions from time to time and to disclose the same to ensure compliance with any relevant industry code of practice, notification or direction from any Australian authority.
22. By using the Service to reproduce, publish, display, transmit or distribute content, the Customer is warranting that the content complies with this Policy and authorizes ECN or its agents to reproduce, publish, display, transmit and distribute such content as necessary for ECN to deliver the content in a timely manner.
23. E-mail
24. The Service must not be used to send unsolicited bulk or commercial messages. This includes, but is not limited to, bulk mailing of commercial advertising, informational announcements, charity requests, petitions for signatures and political or religious messages. Such messages must only be sent to those who have explicitly requested it.
25. The Service must not be used to send messages to any individual who has indicated that he/she does not wish to receive messages from you.
26. The Service may not be used to collect responses from unsolicited email sent from accounts on other internet hosts or email services which violates this Policy or the equivalent Policy or policy of any other internet service provider or web site. Moreover, unsolicited email may not direct the recipient to any web site or other resource which uses the ECN network.
27. Forging, altering or removing electronic mail headers is prohibited.
28. You may not reference the ECN network (e.g. by listing an IP address that belongs to the ECN network) in any unsolicited email even if that email is not sent through the ECN network.
29. "Mail bombing" is prohibited (i.e. you may not send numerous copies of the same or substantially similar messages, nor may you send very large messages or files, to a recipient with the intent to disrupt a server or account).
30. The propagation of chain letters is similarly prohibited, whether or not the recipient wishes to receive such mailings.
31. ECN is not responsible for the forwarding of email sent to any account which has been suspended or terminated. Such email will either be returned to sender, ignored, deleted, or stored temporarily at the sole discretion of ECN.
32. Bandwidth, Data Storage and Other Limitations
33. You must at all times comply with the current bandwidth, data storage and other limitations of the Service.
34. Unless your agreement with ECN permits it - you must not resell, share or otherwise distribute the Service (or any portion thereof) to any third party. For example, you must not provide internet

access to others through a dial up or wireless connection, host shell accounts over the internet, provide email or news service or send a news feed.

35. Violation of Acceptable Use Policy
36. ECN is not obligated to regularly monitor your usage of the Service. However, in its efforts to promote good citizenship within the internet community, it will respond appropriately if it becomes aware that you or someone with access to your Service has violated this Policy or you or someone with access to your Service, has used the Service in an inappropriate manner.
37. ECN prefers to advise Customers of inappropriate behaviour and any necessary corrective action it deems necessary in its sole discretion. However, if the Service is used in a way that ECN, in its sole discretion, believes violates this Policy, ECN may take any responsive action it deems appropriate. Such actions include, but are not limited to, temporary or permanent removal of content, filtering of internet transmissions, and the immediate suspension or termination of all or any portion of the Service. ECN has no liability for any such responsive actions. The above-described actions are not ECN's exclusive remedies and ECN may take any other legal or technical action it deems appropriate.
38. ECN reserves the right to investigate suspected violations of this Policy, including the gathering of information from the user or users involved and the complaining party, if any, and examination of material on ECN's servers and network. During an investigation, ECN may suspend the account or accounts involved and/or remove material which potentially violates this Policy.
39. You hereby authorize ECN or its agents, to cooperate with (i) law enforcement authorities in the investigation of suspected criminal violations, and (ii) and system administrators at other internet service providers or other network or computing facilities in order to enforce this Policy. Such cooperation may include ECN providing the username, IP address, or other identifying information about the Customer. Upon termination of an account, ECN is authorized to delete any files, programs, data and email messages associated with such account.
40. The failure of ECN to enforce this Policy, for whatever reason, shall not be construed as a waiver of any right to do so at any time. You agree that, if any portion of this Policy is held invalid or unenforceable, that portion will be construed consistent with applied law as nearly as possible, and the remaining portions will remain in full force and effect.