

legislation should be the responsibility of the customer.

Competition restrictions

Where a company develops a new website that is likely to attract the attention of its competitors, the company may seek to restrict the developer from working with any of its competitors.

Such a restriction may attract the State and Federal anti-competitive laws, thus should be drafted carefully.

Rather than a blanket restriction from engaging in business with certain companies, drafting of licences can have the effect of preventing copying of the website by a competitor.

Where a sole licence is granted by the developer, no other company can licence the supporting software and tools to operate the site. Full assignment of the supporting software and tools will also have this effect.

A developer will usually charge a premium for such a sole licence or assignment as the developer is then

prevented from exploiting the intellectual capital cultivated in the development process.

Conclusion

The risks that have been discussed above are unique to website development.

Failure to address them in a website development agreement may lead to difficulties in operating the site, loss of the site altogether if the developer 'walks away' with vital components of the site, or even breach of the law.



ASIC's online action plan

ASIC's Online Action Plan, developed as part of the Government Online strategy, is published on ASIC's website at <http://www.asic.gov.au>. It is a public document identifying which services ASIC will make available online by 2001 and how this will be achieved. It provides an opportunity for client comment and allows ASIC to review and strengthen the methods used to ensure that their online services are client focused.

ASIC's approach to ecommerce

Over the next three years, ASIC plans to build a regulatory and business environment in which:

- Consumers of ecommerce financial products and services can be confident that their interests are properly protected.
- Industry participants can confidently plan and develop ecommerce initiatives.
- ASIC further enhances its ability to be an effective and credible regulator in the ecommerce context.
- ASIC continues to enhance its

online delivery of services, in accordance with the Government Online initiative.

This year, ASIC will undertake a number of activities and projects to help achieve this outcome. The plan has six dimensions each of which contain key areas of focus:

- eCapability
- eRegulation
- eEnforcement
- eCommunication
- eCoordination
- eBusiness Development

ASIC undertook a detailed audit of its services as part of its online services strategy review and, together with supporting business case analysis, the following key projects have been identified for development during this year:

- Financial Services Reform (FSR) alert.
- Enforceable undertakings online.
- Online complaints management.
- Corporate Law Economic Reform Program (CLERP) 7 payments infrastructure.
- Online licensing for FSR.
- Online lodgment of external administration forms.

News and Views

- Online offer documents feasibility study.
- Email management feasibility study.

The detailed audit of services also identified a series of potential impediments to online service delivery including:

- Resources and funding.
- Online capability of clients.
- Transaction volumes and size of client group.
- Paper attachments.
- Information requirements and standards.

In its commitment to the Government Online strategy ASIC's emphasis is also on ensuring that ASIC meets the key national standards identified in the strategy. These are the:

- Online Information Service Obligations requirements.
- Authentication standards.
- Privacy standards.
- Security standards.
- Metadata standards.
- Electronic publishing standards.
- Electronic record keeping guidelines and archiving standards.
- Accessibility standards.
- Electronic procurement requirements.

