

## Extended authorisation liability

### **1. What could constitute 'reasonable steps' for ISPs to prevent or avoid copyright infringement?**

A reasonable step for ISP's to take is to enable a communication between the rights holder and the alleged infringer to take place. As a result of the "iiNet trial" this communication has been shown to be not legally required, and thus there is currently no way for either:

- a) the rights holder to communicate with the alleged infringer
- b) the alleged infringer to know that the material that was allegedly downloaded infringes on the rights holder's intellectual property

This would be the limit of reasonable steps, as the infringement is only an allegation and it would be unjust for any steps to be taken which affect the alleged infringer without first being taken through the justice system - ie "innocent until proven guilty". An ISP is an Internet Service Provider, not a judge, jury, and executioner. It would also ensure that the alleged infringer can make the appropriate changes to ensure that they do not infringe in the future.

Furthermore, many countries and intergovernmental organisations around the world have legislated that internet access is a human right, and it is clear that many more will in the near future as the true potential of the internet is realised. Impacting (disconnecting/reducing the usefulness of/reducing the speed of) the internet access of an alleged, or even proven infringer, through a legislative or industry framework, would be an unreasonable moral burden to put on an ISP. It would be akin to banning someone from drinking water because they used it in a 'home drug lab'.

### **2. How should the costs of any 'reasonable steps' be shared between industry participants?**

This depends on what the reasonable steps are, and the costs involved. Allowing an alleged infringer and the rights holder to communicate would be a low cost solution. However, if the implemented solution was, for instance, the tracking of all internet traffic and analysing it for infringing content, the costs would be astronomical, and this cost should be solely borne by rights holders.

### **3. Should the legislation provide further guidance on what would constitute 'reasonable steps'?**

The legislation should define exactly what is reasonable, as without a proper definition then more legal action like in the "iiNet trial" will almost be guaranteed to find out what the definition of reasonable is. This will also ensure that all stakeholders are properly involved in the discussion (government, rights holders, ISP's, and consumers) during the lawmaking process, rather than behind closed doors in an industry program.

### **4. Should different ISPs be able to adopt different 'reasonable steps' and, if so, what would be required within a legislative framework to accommodate this?**

No. If it's reasonable for one ISP, then . To protect consumers from frivolous lawsuits they should be forced to only take the 'reasonable steps' as defined by the law that is proposed.

### **5. What rights should consumers have in response to any scheme or 'reasonable steps' taken by ISPs or rights holders? Does the legislative framework need to provide for these rights?**

Any scheme that is implemented should not impact on the right of a consumer to the same level of internet access they would get without the scheme/'reasonable steps' in place, as the internet is used for such a broad range of applications and is so integral to a modern society.

Consumers should have the right of 'innocent until proven guilty', and this should mean being proven guilty by the judicial system and not by a lesser system such as an industry scheme.

## Extended injunctive relief to block infringing overseas sites

### **1. What matters should the Court consider when determining whether to grant an injunction to block access to a particular website?**

The court should consider the many legal reasons for which one might access the website in question. For example, some BitTorrent 'trackers' are used as the primary method of distribution of popular linux distributions.

The court should also take into account the track record of the party requesting the injunction, and whether they have history of abusing the process. YouTube videos are a good example of this. YouTube has a method for rights holders to notify of an infringement, and a significant portion of them are mistakenly flagged as infringing as the process is able to be automated, and software is never perfect there are many false positives. This impacts upon free speech. The process needs to be sufficiently slow and laborious to ensure that only legitimate websites are put forth by the rights holders.

## Extended safe harbour scheme

### **1. Would the proposed definition adequately and appropriately expand the safe harbour scheme?**

Yes

## Building the evidence base

### **1. How can the impact of any measures to address online copyright infringement best be measured?**

I don't believe they can.

## Other approaches

### **1. Are there alternative measures to reduce online copyright infringement that may be more effective?**

Rights holders should make content

- a) more affordable
- b) more available

- c) in more formats
- d) with looser licensing terms

The rise of services like Netflix in America, the iTunes Store, Spotify, Google Play Store etc, show that when consumers are given prices that are reasonable, and the product is delivered in an effective way, they are willing to pay for the product.

I have always found it quite unreasonable that rights holders seem to want to have their cake and eat it too. The best example of this is through a hypothetical situation. If I buy a DVD, technically I'm buying a license for that content to watch it. If this is the case, then I should be able to make backup copies of that DVD, or to 'rip' it onto the hard drive of my computer for backup purposes, as long as I don't distribute it to other people, that it's for private purposes, and that these multiple copies are not watched concurrently. However, rights holders claim that not only am I buying a 'license' for the DVD, but I'm also buying the physical DVD and thus I'm not able to make backup copies of it. If that's the case, and the DVD becomes damaged, then how am I meant to use the license that I paid for? Situations like these lead to 'mum and dad pirates' when what the democratic majority think is perfectly reasonable is infact copyright infringement.

## Regulation Impact Statement

### **1. What regulatory impacts will the proposals have on you or your organisation?**

I am a consumer of content foremost, and also an IT professional. This will affect the methods which I can obtain content, and it could also mean that in the future I may be involved in this process if ever I work for an ISP.

### **1. Do the proposals have unintended implications, or create additional burdens for entities other than rights holders and ISPs?**

They create additional, almost unreasonable burdens for consumers, as it is almost impossible to know whether downloading a file from a website is infringing on anyone's copyright. For example, if you were to visit a BitTorrent website, click videos, and download the most popular video, there is nowhere that says "this video is copyright ABC123". It may not be until you open the video that you actually see a copyright logo, by which time it's too late... the file has already been downloaded.