

The Briefing

New Zealand internet sector protests harsh new copyright laws

Monday, 23 February 2009

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New Zealand's internet sector is up in arms over new laws that mean internet service providers can disconnect users accused of downloading copyrighted material, even if those accusations are not proven.

Section 92A in NZ's new Copyright Act was rammed through New Zealand's Parliament last year and is due to come into effect on 28 February.

The bill states that an ISP "must adopt and reasonably implement a policy that provides for termination, in appropriate circumstances, of the account... [of] a person who repeatedly infringes the copyright in a work".

Critics of the law argue that this would mean an ISP that receives a notice of copyright infringement against a user would be forced to terminate repeat offenders, regardless of whether or not the infringements were actually proven in court.

New Zealand's Telecommunications Carrier Forum (TCF) has released a draft code of conduct for ISPs that proposes a four strike system consisting of three warnings and a final disconnection notice for repeat offenders.

To keep malicious copyright infringement accusations to a minimum, the TCF has suggested that each infringement notice issued carry a processing charge to be paid by the party lodging the notice.

But the code of conduct has done little to quell the anger of opponents of the new law.

Last week around 200 people gathered outside New Zealand's Parliament with an online petition signed by 10,000 people, and this morning hundreds of blogs, news sites, discussion boards and Twitter and Facebook users will hold an internet blackout to vent their anger.

British comedian Stephen Fry is among the Twitter users who have adopted a black avatar in protest. "If you're on Twitter, would you change your avatar to black to show support for the fight against a 'three accusations and you're offline' law in New Zealand?" he said on the website last week.

The Telecom Users Association of New Zealand has warned in a letter to New Zealand Prime Minister John Key that its members and many Kiwi businesses "are woefully unprepared for the consequences of S92A" and decrying the law as "neither reasonable nor workable".

The TUANZ also warned Key that the country is likely to become a soft target for copyright claims from international companies that trawl the internet looking for copyright breaches.

"The adversaries in this are not the nice guys who play in the band at the local tavern. They are international copyright owners who constantly scan the internet using robotic devices that generate vast numbers of allegations of infringement. Once S92A becomes effective, they will inevitably program their devices to focus on domain names with ".nz" at the end, in response to S92A making this country the world's softest target for their campaigns.

"This will potentially swamp small ISPs, business IT departments, and managers generally with a torrent of allegations with no obvious means to dispute them."

Lawyer Jack Dolphin from Actuate IP says the new laws should make it easier for Australian businesses to pursue copyright infringements in New Zealand, but says it may take a while before it is clear exactly how the system will function.

"I'm a lawyer. We'll sit back and wait to see what happens with some test cases."

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