
Paul Flewelling-Submission on the draft copyright Code of Practice for S92A

With reference to "Internet Service Provider Copyright Code of Practice", draft 4th February 2009, I would like to make the following comment:

4 PRINCIPLES

Agree that it is unfair that downstream ISPs should not have their internet connection terminated under any circumstances as this will disconnect non-infringers unfairly.

However in 4.10 there is some differentiation made for essential service providers, and it is not acceptable that certain organisations can have their internet access terminated under any circumstances. Emergency services such as Police, Fire, Ambulance, Coast Guard, Mountain Rescue, etc, etc rely on internet services for essential information.

Other public facing organisations who are at risk of abuse by members of the public, such as libraries, should be also given special dispensation when dealing with repeat infringements and should not be subject to disconnection.

Special dispensation should also be made for Users whose connection is primarily used for business but who work from home. These Users are vulnerable to loss of income if their internet connection is terminated, and are especially vulnerable where they share a connection with other household members and/or other mitigating circumstances such as stolen connection / stolen identity / virus activity.

SECTION G FINAL WARNING AND TERMINATION

32. Seems to imply that any party to this agreement (including the Copyright Holder), can override the ISPs discretion and request the termination of an account immediately. There are too many mitigating factors, such as stolen connection / stolen identity / virus activity and it would be in breach of civil rights that the copyright holder, or their representative would be able to have the final say in such decisions. There should be an independent court or tribunal, operating without bias, to determine if disconnection is applicable.

ANNEXURE 2: COPYRIGHT HOLDER NOTICE(PRE-APPROVED COPYRIGHT HOLDER)

Further to 5(iii) would expect some sort of process to allow for compensation due to loss of business brought on by unfair / unproven (other than in a court of law or tribunal) termination of internet services used for business, government and/or other essential purposes.

Yours sincerely
Paul Flewelling