
Adrian Ashdown - Submission on the draft copyright Code of Practice for S92A

To whom it may concern,*

*Clause 4.1 and 11:

As a copyright holder I'm concerned that this statement around "evidence that a court would find acceptable" is too vague. Courts work on either a judge or jury situation and dependant on the person acting as that judge (or persons acting as the jury), the outcome could be different. My fear is that, at least in the case of ownership of a musical copyright, evidence can be fabricated without authentication. I would much prefer to see this particular clause rephrased so that an officially authenticated court document needs to be produced to show ownership or at least have a finite list that provides information on the "only" forms of evidence that would be appropriate. As mentioned, I am a copyright holder, and without this type of clarification someone who claims to own my music could possibly lodge an illegitimate complaint against me using forged evidence and cause me a lot of inconvenience.

Clause 4.4:

The sentence that states "it is not appropriate for an ISP to disclose User or Downstream ISP detail without that customer's consent or a Court order (*unless a User claims to be a Downstream ISP, in which case such disclosure is necessary in order to enable the Copyright Holder and the Downstream ISP to communicate directly*)" directly contradicts rule 11 of the Telecommunications Information Privacy Code which states:

- (1) A telecommunications agency that holds telecommunications information must not disclose the information unless the agency believes, on reasonable grounds:
 - (a) that the disclosure is to the individual concerned;
 - (b) that the disclosure is authorised by the individual concerned;
 - (k) that the disclosure is necessary to deal with a service or billing enquiry and the disclosure is to:
 - (i) a member of the subscribers household; or
 - (ii) a representative of a business subscriber;
- who appear to be acting on behalf of the subscriber;

None of the current clauses in rule 11 would allow this.

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