

Australian Greens Dissenting Report

1.1 The Copyright Amendment (Online Infringement) Bill 2015 is the latest in a long line of misguided attempts by the government to monitor, control and censor the Internet.

1.2 The Bill will allocate a significant new censorship power to the Court that will be used by copyright owners to block access to online content. However, there is a substantial weight of evidence showing that it will be relatively easy to evade the Bill's provisions, that it does not contain appropriate safeguards, and that it may result in legitimate online sources being blocked.

1.3 Most importantly, there is also a significant weight of evidence showing that the Bill will not meet its aims, as it does not address the underlying cause of online copyright infringement: The continual refusal of offshore rights holders to make their content available in a timely, convenient and affordable manner to Australians.

1.4 The committee's report into the Bill canvasses a number of these concerns, which were raised by many stakeholders during the inquiry. However, the report's conclusions and recommendations do not acknowledge or deal with these outstanding concerns regarding the Bill.

1.5 In their submission, major telecommunications companies Amcom and iiNet note that 'site blocking is unlikely to be an effective way of dealing with online copyright infringement',¹ a view supported by Google, which notes in its submission: 'There is increasing evidence to suggest that site-blocking is not the most effective means of stopping piracy.'²

1.6 Part of the reason for this is the ease of avoiding site-blocking mechanisms. Noting a variety of popular techniques already available for the purpose, consumer group CHOICE notes in its submission: 'Circumventing a website block is not difficult.'³

1.7 A number of submissions to the inquiry pointed out that a more effective way of dealing with Internet piracy would be to address its root cause: The lack of commercial options in the Australian market.

1.8 CHOICE wrote in its submission:

CHOICE's research has shown that consumers in Australia pay more for identical digital products than consumers in comparable markets, such as the USA or United Kingdom. Providing Australians with better access to digital content at a comparably reasonable price will give consumers a greater incentive and opportunity to access content legitimately.⁴

1 Amcom and iiNet, *Submission 15*, p. 2.

2 Google, *Submission 27*, p. 6.

3 CHOICE, *Submission 34*, p. 2.

4 CHOICE, *Submission 34*, p. 2.

1.9 The extremely rapid uptake of the Netflix Internet television services after its March 2015 launch is one strong indication that Australians will adopt commercial services where they are available, instead of infringing copyright.

1.10 Submitters highlighted the fact that this issue had been examined in detail by the 2013 inquiry into the pricing of technology products and content by the House of Representatives Standing Committee on Infrastructure and Communications. The government has not yet responded to that report.

1.11 Submitters also raised a number of other substantive issues with the Bill. Similar legislation in the UK has shown that ISPs and foreign website owners would be unlikely to contest the site blocks, due to the cost of doing so and the effort involved for a foreign party in involvement in Australian legal action, meaning that many of the site-blocking actions would be likely to pass uncontested through the courts without sufficient advocacy on both sides.

1.12 There are also concerns that the language in the Bill is not specific enough to prohibit some legitimate providers of online services (such as Virtual Private Network providers) from being blocked.

1.13 During any legislative process, it is important that the rights of all stakeholders be considered so that a balance can be struck between the rights of individuals, industry, and other organisations. Unfortunately, the Australian Greens do not believe the Committee has adequately taken the views of stakeholders other than copyright holders into account in its report.

1.14 Neither does the report adequately address concerns that the Bill will not be effective in meeting its aims.

Recommendation 1

1.15 The Australian Greens recommend that the Bill not be passed.

Senator Scott Ludlam
Australian Greens