



Media Release

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Copyright Code will streamline ‘speculative invoicing’: ACCAN

In the light of the Dallas Buyers Club Federal Court decision, the Australian Communications Consumer Action Network ([ACCAN](#)) is concerned that the Copyright Code will streamline ‘speculative invoicing’. Speculative invoicing is the practice where a rights holder sends a letter of demand for payment of damages to an account holder who has allegedly engaged in illegal downloading.

ACCAN has been working with industry and rights holders to develop the industry Copyright Code which today has been [submitted to the ACMA](#). The Code includes a Notice Scheme that will see consumers sent infringement notices if they are alleged to have downloaded pirated material. In [our submission](#) to Communications Alliance, we outlined significant concerns in the Code’s consumer safeguards.

“Speculative invoicing has occurred in the US, Canada and UK where consumers have been sent intimidating letters demanding compensation for claims of illegal file sharing,” said ACCAN CEO, Teresa Corbin. “The Dallas Buyers Club Federal Court decision is worrying because in the future Australian consumers may be sent threatening letters shaking them down for money or face the threat of legal action.”

To avoid this intimidating practice, ACCAN has proposed that rights holders who engage in speculative invoicing be barred from using the industry Notice Scheme. Overseas there have been cases where consumers have been intimidated into paying \$9,000(AUD) in out of court settlements to appease copyright holders. ACCAN urges any consumers who receive a speculative invoice to seek independent legal advice before taking any action.

ACCAN has further concerns regarding the cost, which is still unknown and the questionable benefits of the scheme.

“Under the Code, internet service providers (ISPs) will be forced to keep evidence of online copyright infringement and send infringement notices to customers,” added Ms. Corbin. “The cost of running the scheme will be passed on to consumers through higher internet bills. We are calling on the Australian Communications and Media Authority to subject the scheme to a cost benefit analysis by the government Office of Best Practice Regulation and ensure it meets appropriate community safeguards.”

ACCAN has further concerns regarding the security of consumer information that will be collected under the Code. This information will be a treasure trove to hackers who may illegally access the information and compromise consumer privacy. There are no provisions in the Code forcing ISPs to delete information once it is no longer useful.

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The Australian Communications Consumer Action Network (ACCAN) is Australia’s peak communications consumer organisation. The operation of ACCAN is made possible by funding provided by the Commonwealth of Australia under section 593 of the Telecommunications Act 1997. This funding is recovered from charges on telecommunications carriers.

This is a real concern given the Code requires ISPs to store information about download history and potentially illegal activities.

“Ultimately market solutions that provide affordable, available content to Australian consumers will have the biggest impact on piracy,” said Ms. Corbin. “CHOICE commissioned research has found that the top reasons consumers download pirated content are all related to a lack of access to affordable content.”

For more information, please contact Luke Sutton on 0409 966 931 or luke.sutton@accan.org.au.

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