



Australian Digital Alliance

MEDIA RELEASE

29 July 2008

Controversial IP treaty could threaten digital economy

The Australian Digital Alliance (ADA) is concerned that proponents of the Anti-Counterfeiting Trade Agreement (ACTA) are pushing to finalise the controversial treaty by the end of the year, even though it appears it's not even at draft text stage yet.

Based on the name, the ACTA would appear to be concerned solely with counterfeiting, however a discussion paper document leaked online, industry submissions on the United States Trade Representative (USTR) website and even the sketchy detail provided on the website of the Department of Foreign Affairs and Trade (DFAT) all suggest that much broader subject matter is on the negotiating table. The ACTA reportedly seeks to put in place a more stringent standard of intellectual property (IP) enforcement, with copyright infringement and piracy apparently being a main priority.

The ADA fears that in the rush to conclude the ACTA, the final text could contain strong IP enforcement measures that impinge upon individuals' privacy and interfere with fundamental legal principles like the presumption of innocence.

Some worst-case-scenarios like customs powers to search iPods and laptops have been refuted by the Australian Government, but without any draft text or information, "even if these provisions aren't included, the question is, what will be?" said ADA Chair Derek Whitehead. "We do not want to see an agreement that punishes consumers and hinders innovation and Australia's 'digital economy'".

In alliance with the Australian Library and Information Association (ALIA), CHOICE and the Internet Industry Association (IIA), the ADA filed a submission with DFAT, urging Australia to take the lead in ensuring that six vital principles are not compromised:

1. Transparency and accountability: adequate opportunity to see and comment on text before it is concluded
2. Presumption of innocence: no enforcement, civil or criminal, without independent findings of infringement
3. Proportionality: legal enforcement must be proportionate to the infringement
4. Consideration of impact on other treaties and laws: no doubling up or inconsistency with Australia's existing obligations
5. Avoiding the prescription of surveillance technologies for IP enforcement
6. Safeguards against liability for intermediaries such as educational institutions, libraries and Internet Service Providers.

This week Australian negotiators will head to Washington DC for the next round of discussions. The ADA urges negotiators call for a realistic timetable for the ACTA, to allow time for genuine consultation with affected parties, and to ensure these vital principles are not compromised.

The ADA is a coalition of public and private sector interests formed to promote balanced copyright law. ADA members include universities, libraries, schools, museums, galleries and individuals.

Full text of principles available at: <http://www.digital.org.au/submission/ACTA.htm>

Contact: Laura Simes (Executive Officer, ADA)
P: 02 6262 1273, E: lsimes@nla.gov.au