

**AUSTRALIAN COPYRIGHT COUNCIL'S SUBMISSION IN RESPONSE TO
THE REVIEW OF COPYRIGHT ONLINE INFRINGEMENT AMENDMENT ("REVIEW")**

MARCH 2018

A. VIEW OF THE AUSTRALIAN COPYRIGHT COUNCIL

1. The Australian Copyright Council (**ACC**) welcomes the Review as an important step in strengthening a legislative scheme that acknowledges the burdensome practical and technical issues faced by rights-holders who seek to meaningfully protect their copyright in this technological age.
2. The site-blocking scheme is not an end in itself. Rather, it has the capacity to perform a valuable role in an overall copyright framework that must necessarily further and protect the interests of creators whose enforcement rights are otherwise hampered.
3. The ACC has not been directly involved with site-blocking legal proceedings. However, based on a review of the reported decisions and following consultation with ACC members who have been involved in site-blocking proceedings, the ACC makes the following comments:
 - 3.1 The ACC has sighted data that will form part of submissions in response to this Review from Music Rights Australia, as well as various Australian Film and TV Bodies. That data supports the conclusion that the site-blocking scheme has had a material and effective impact on the level of access to websites facilitating online copyright infringement.
 - 3.2 Concerted efforts made by some to establish alternative schemes of copyright infringement (whether they be alternative torrent sites or otherwise), should not be seen as undermining the practical impact of the site-blocking scheme.
 - 3.3 There is evidently a significant costs burden borne by applicants under the scheme. That burden will discourage a continued investment of time and resources by those rights-holders seeking to utilise the site-blocking scheme and, as such, the long-term effectiveness of the scheme. Among other things, we understand that where applicants to proceedings successfully apply for the blocking of certain sites, further formal applications must still be made to the Court for expanded site-blocking orders where alternative or proxy sites are subsequently created and/or discovered that allow access to the sites which are already the subject of existing orders.

3.4 With that in mind, the ACC would:

3.4.1 welcome the opportunity to comment on any proposed legislative amendments that we expect will be suggested by parties who have been involved in relevant legal proceedings; and

3.4.2 in principle, support the introduction of a non-judicial notification scheme which would allow applicants to, having received site-blocking injunctive orders blocking certain sites, notify respondents of alternative or proxy sites allowing access to those same sites without the need for a formal application.

4. We also note that site-blocking legal proceedings have received significant media attention and have attracted public debate on the issue. This has assisted in bringing public awareness to the issues involved with online copyright infringement and should be borne in mind when considering the effectiveness of the scheme.

B. ABOUT THE AUSTRALIAN COPYRIGHT COUNCIL

1. The ACC is an independent, non-profit organisation that represents the peak bodies for professional artists and content creators working in Australia's creative industries and Australia's major copyright collecting societies.
2. We are advocates for the contribution of creators to Australia's culture and economy. Copyright is important for the common good.
3. A full list of our affiliates is available on our website, copyright.org.au.

C. CONCLUSION

1. The ACC is thankful to the Department for considering the terms of this submission.
2. Should the Committee have any queries or require any further information, please contact:

Grant McAvaney
Chief Executive Officer
Australian Copyright Council