

# ISPANZ *update*

February 2007

## ISPANZ files Copyright submission

ISPANZ has filed a submission to the Commerce Select Committee on the Copyright Amendment (New Technologies and Performers' Rights) Bill.

The submission is supporting points made in InternetNZ's submission around ISP Liability and the proposed Notice and Takedown system.

Other aspects of the bill do not squarely relate to ISPANZ, albeit issues such as digital rights management and format shifting are covered in InternetNZ's submission and may be of interest to individual members.

Key issues for ISPANZ are ensuring that ISPs are not liable for the copying of copyright works they do when simply transmitting information around the internet and caching, and avoiding a draconian notice and takedown system that would necessitate ISPs making judgment calls about the likely copyright infringement of users content.

InternetNZ hosted workshops on the Bill in Wellington and Auckland in February. These attracted 50-odd attendees to each and were successful in generating debate and identifying particular problems with the Bill, leading, one would expect, to better submissions.

## Customer Complaints Scheme

Progress continues on the Customer Complaints Scheme. Orcon has been unanimously voted onto council to fill both seats that are allocated to the non-tier-one industry reps. Even though Orcon holds both votes, the process for allocation of votes is based on a mandate from the non-tier-one industry members.

The RFP for the scheme agent is about to be issued by the TCF board. For now there is an interim council and there should be a final contract for ISPs and telcos to sign up to soon.



Rick Shera presents an alternative notice and notice takedown proposal at InternetNZ's copyright workshop

## Peering in our sights

ISPANZ has completed a position paper on peering and released this to the media.

The focus of this paper is on pushing for the exchange of local data locally and there is optimism that this is an achievable result in the current political climate.

Media reports indicate the Minister is interested in the topic and that there has been a change of heart by Telecom on the issue.

Further media interest is anticipated.

## LLU and UBS Standard Terms Determinations

The Commerce Commission has decided to go ahead with Standard Terms Determinations for LLU and bitstream, in a parallel process. A scoping workshop is scheduled for March 21 and 22.

The Telecommunications Carriers' Forum has met to decide how it can best add value. This will be primarily through working groups to assist Telecom in putting together draft Standard Terms for the Commission.

The previous ISPANZ working group looking at enhanced bitstream has been rolled into the TCF bitstream working group to jointly support the Commission's Standard Terms Determination for bitstream.

The Commerce Commission is aiming to consider co-location and backhaul subsequently. ISPANZ members are pushing for Telecom to commit to commercial co-location terms before agreeing to the delayed start of the co-location Standard Terms Determination.

## Anti-Spam Act done, Code of Practice to come

The Unsolicited Electronic Messages Act has been passed and will come into effect on September 6. During the six month period before then ISPs, businesses and consumers will need to learn what it all means. InternetNZ is developing an education action plan and will be working with ISPs, Government and business groups.

Under the Act, the Department of Internal Affairs will be able to deal with spammers located in New Zealand and will also be able to coordinate with other agencies internationally. The DIA will have a central email address that people will be able to send spam to. Specialist software will analyse the spam and this will help them in taking the appropriate actions.

By September the ISP Anti-Spam Code of Practice will be finalised, clarifying expectations on ISPs around Spam. With the Act excusing ISPs of virtually any liability, the Code of Practice becomes more important as a self-regulatory agreement on the industry's approach. This document is due out for public consultation in March.

The Code of Practice specifically relates to email spam and includes requirements around providing information to customers, having an acceptable use policy that addresses spam, cooperating with law enforcement, and having a complaint handling process.

## Telecom Scorecard

The ISPANZ-produced Telecom Scorecard, which rates progress on Telecom in dealing with ISP issues, has been sent to Telecom and copied to InternetNZ, MED, Commerce Commission and TUANZ.

## Operational separation

ISPANZ is awaiting the Ministry of Economic Development's draft determination on operational separation, expected in March. There will be an opportunity to submit on this determination.

If you have any queries on the information above or actions for ISPANZ to consider please contact the directors individually, or jointly at [directors@ispanz.org.nz](mailto:directors@ispanz.org.nz)