

## **Draconian measures to protect 'copyright'**

by Graeme Philipson via reed - SMH *Wednesday, Jun 11 2008, 7:29pm*

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THE forces of reaction are fighting back. As they often do, they are carrying out their planning in secret, in the knowledge that if more people knew of their activities they would not be allowed to get away with it. The US (surprise, surprise) has circulated a draft "Discussion Paper on a Possible Anti-Counterfeiting Trade Agreement" (ACTA) for the next G8 meeting, in Tokyo in July. The full text of the document has been published on Wikileaks ([wikileaks.org](http://wikileaks.org)).

The ACTA draft is a scary document. If a treaty based on its provisions were adopted, it would enable any border guard, in any treaty country, to check any electronic device for any content that they suspect infringes copyright laws. They need no proof, only suspicion.

They would be able to seize any device - laptop, iPod, DVD recorder, mobile phone, etc - and confiscate it or destroy anything on it, merely on suspicion. On the spot, no lawyers, no right of appeal, no nothing.

The draft contains other draconian measures. It proposes a governing body for copyright protection that would operate outside organisations such as the World Trade Organisation (WTO) and the UN. In short, it proposes a global police force, answerable to no one, with intrusive powers that vastly exceed those currently available to adherents of the concept of intellectual property.

The proposed treaty is being sponsored by a small group of US Congress members, all of whom Wikileaks says have received significant contributions from major record companies and film studios. As they say, "follow the money".

The first newspaper to break the story was Canada's The Ottawa Citizen, which in a story by Vito Pilienci on May 24 picked up on the Wikileaks posting. Since then the blogosphere has been rife with stories about the move. Most commentators are outraged that such a proposal is even being considered.

For 10 years in this column and elsewhere I have been arguing that the concept of copyright, and by extension most forms of so-called "intellectual property", are irrelevant in the digital era. I was once, with just a few others, a voice in the wilderness. Now most people I talk with agree.

The copyright mafia have tried all sorts of things, including the absurdity of Digital Rights Management (DRM), which attempts to use technology to hobble technology. They have maliciously prosecuted individuals for the "crime" of copying music from one medium to another.

DRM is struggling, but we still see stupidity everywhere. Apple doesn't let you copy stuff off your iPod - you have to use third-party software to perform what should be a simple task. Foxtel's iQ and Austar's MyStar don't let you copy stuff off those boxes to other media.

Downloaded movies self-destruct after a limited time. It is still illegal in Australia to copy a CD to another CD (only "format shifting" is allowed), or to record a TV show for any other purpose than

watching it once.

Whether this absurd treaty becomes reality or not, it indicates the lengths to which some are prepared to go. They will use any means to fight a technology that threatens their anachronistic monopoly of the distribution of digital content.

Clever people are taking advantage of the technology to develop new business models and reach new audiences. Bands are bypassing record companies and going direct to consumers. Authors are publishing online. Small moviemakers are finding new outlets through the wonders of the internet.

The big record companies and film studios have a clever answer - turn everybody into criminals. Use treaties and laws to try to prevent people doing what comes naturally and, in the digital age, easily.

The most that can be hoped of the proposed ACTA treaty is that, if it comes into being, it will further expose the futility of legislating against the key advantage of digital technology - the ease with which content can be stored, copied and transmitted. Where the technology is liberating people and content, the powers of reaction are attempting to stifle it.

Fortunately they are on the wrong side of history. When the full details and consequences of this treaty become widely known, I believe the effect will be the opposite of what its authors intend. It contains so little understanding of the way the digital world works that the backlash against it will be massive, accelerating the inevitable death of the out-of-date business models it is vainly trying to protect.

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<http://www.smh.com.au/articles/2008/06/09/1212863545123.html>

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Cleaves Alternative News. <http://cleaves.lingama.net/news/story-1107.html>