

12 April 2010

Australian Digital Alliance

The Wellington Declaration by citizens concerned about ACTA

On 10 April 2010, concerned citizens attended a conference in Wellington New Zealand, in a grassroots effort to raise the profile of issues surrounding the murky Anti-Counterfeiting Trade Agreement (**ACTA**).

We are a coalition of public and private sector interests formed to promote balanced copyright law. Members include universities, libraries, schools, museums, galleries, IT companies, and individuals.

The outcome from the conference, styled the 'Wellington Declaration', is a strong statement that voices a resolute set of expectations from the public interest perspective. It was truly spectacular to see so many people independently raise the same concerns about ACTA. To reach unanimous agreement on such a cognisant set of declarations by such a large and diverse group of people in such a short period of time is almost unheard of.

The goals of the Wellington Declaration are to:

1. bring openness and accountability to the ACTA process and to add weight to growing concerns about what ACTA's real purpose is and also its likely unintended consequences, which can never be fully appreciated without transparency;
2. confine the agreement to its initial stated purpose – commercial scale counterfeiting not substantive copyright matters; and
3. failing the achievement of the second goal, to put limits on what ACTA can require governments to implement in domestic law.

Prominent among the concerns raised was the continuing threat of three strikes provisions. Participants considered that the procedure jeopardises matters of fundamental importance such as freedom of communication, expectations of justice and fairness, access to essential services and the digital economy.

Also heavily featured was the amplification of intermediary liability for ISPs. This has the potential to diminish internet innovation, restrict the free flow of information and damage legitimate commerce – the costs of which will be borne by the end consumer.

Participants were concerned that ACTA may provide for damages that include controversial measures to assess the amount awarded and punitive style statutory damages. Statutory damages are disproportionate to actual losses, arbitrary, unprincipled and ultimately result in injustice to individuals.

We consider that generally, there is a lack of sufficient concern regarding the potential negative impact of ACTA. This stems from a belief that Australia's existing laws will meet all the requirements of ACTA and will not need to be changed. However, analysis of leaked documents raises serious questions. Further, the real danger lies in the extrapolation of ACTA principles through the political lobbying and judicial processes.

The lack of transparency has stifled essential public discussion while nurturing speculation about possible draconian requirements and does nothing but entrench negative views. Transparency is crucial because it will either establish that our concerns are unfounded, or ensure that voices representing the public interest are heard.

We encourage all those who value the future of Australian innovation, research, education and access to knowledge to add their voice to the Wellington Declaration and digitally sign the petition.

Matt Dawes
Copyright Law and Policy

<http://publicacta.org.nz/wellington-declaration/>