



ISPai comment on proposed Statutory Instrument to amend copyright law.

As the imminent publication of the copyright Statutory Instrument looms closer, Minister Sean Sherlock has appeared on Matt Cooper and Newstalk explaining the need for its introduction and voicing his opinions on the matter.

Minister Sherlock has stated that this would be nothing like SOPA and is aiming to strike a balance between rights of intellectual property rights holders and the rights of individuals. The Minister added that it will simply restate a law which was previously believed to have existed in Ireland up until the judgment of Justice Charleton in *EMI v UPC* that an intellectual property right holder has the ability to seek an injunction in the case where an infringement has occurred. He stated that the government must respect this judgment by providing for this ability, and that the SI wording in question will be the minimum requirement to reflect that judgment.

If the legal consensus necessitates the introduction of this Statutory Instrument, the ISPai will fully support the Minister so long as the rules which are drafted adhere to the essential principles which we have reiterated continually.

- ISPai believes that if an injunction is available against an intermediary, it should be taken against the appropriate intermediary. The definition of intermediary has never been properly delineated and ISPai believes that rights holders should seek redress against the types of intermediaries who actively facilitate or participate in copyright theft such as P2P indexing services for example, and not an access provider who merely provides the technical infrastructure over which the information flows.
- The Statutory Instrument must also respect the fundamental rights of Internet users, and the fundamental rights of service providers to conduct business which are protected by the Charter for Fundamental Rights.
- ISPs should never be obliged to interfere with the flow of traffic on its networks, since to tamper with the architecture of the Internet would have serious negative consequences for what is a very fragile system. A non-biased and open Internet must be maintained to promote innovation, freedom of speech and communication.

ISPai has always been of the opinion that a third party infringer should be the target of the property right holder in an infringement claim. It is not the role of an access provider to interfere with a subscribers Internet usage. ISPai remains committed to this view.

ISPai

20th January 2012