



LOWNDES JORDAN
BARRISTERS & SOLICITORS



ISPs as gatekeepers?

Presented by Rick Shera

To KANZ 09

On 4 November 2009



Section 92A

An Internet service provider must adopt and reasonably implement a policy that provides for termination, in appropriate circumstances, of the account with that Internet service provider of a repeat infringer

Embargoed until 10 am Friday 19 September 2008

Joint Media Statement

Telecommunications Carriers' Forum
InternetNZ

Internet Service Providers Association of New Zealand
Telecommunications Users Association of New Zealand
New Zealand Computer Society
Women in Technology

Auckland, 19 September 2008

ICT INDUSTRY MOVES TO ADDRESS COPYRIGHT CONFUSION

"A deeply flawed law that undermines fundamental rights and simply will not work."

This Website is Blacked Out

This Saturday, February 28th, Section 92A of the Copyright Act is due to come into force.

This website has voluntarily been taken down in protest against this law, which will be used to disconnect New Zealanders from the internet based on accusations of copyright infringement, without a trial and without evidence held up to court scrutiny.

May we be very clear: we do not support or condone copyright infringement or illegal downloads.

But this blatant disregard towards the basic human right to a fair trial is completely unjust and unworkable and it has the potential to punish New Zealand businesses and individuals where in fact no laws have been broken.

Similar laws have been rejected in the EU as being against *"a fair balance between various fundamental rights"*, rejected in the UK due to *"impracticalities"*, and rejected in Germany as being *'Unfit for Germany, Unfit For Europe'*.

We don't care who voted for the law in the first place. We just want it stopped. We call on the Minister responsible, National's Simon Power, to do the right thing and repeal Section 92A immediately.

www.CreativeFreedom.org.nz



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Twitter



stephenfry

Follow

Home Profile Find People Settings Help Sign out

Name Stephen Fry
Location San Diego, California
Web <http://stephenfry...>
Bio I'm blacked out: Stand up against "Guilt Upon Accusation" for New Zealand <http://creativecommons.org-n/blackout.html>

**Estimated 10,000
blacked out twitter
avatars**



I'm a
rightsholder
too

FAIR GO
NOT
FEAR!GO!

ISPs
are not
courts



Telecommunications Carriers' Forum

Internet Service Provider
Copyright Code of Practice

Final Draft v 2.5
31 March 2009

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Internet Service Provider Copyright Code of Practice - Final Draft 31 March 2009

#

#f

#fa

#fai

#fail



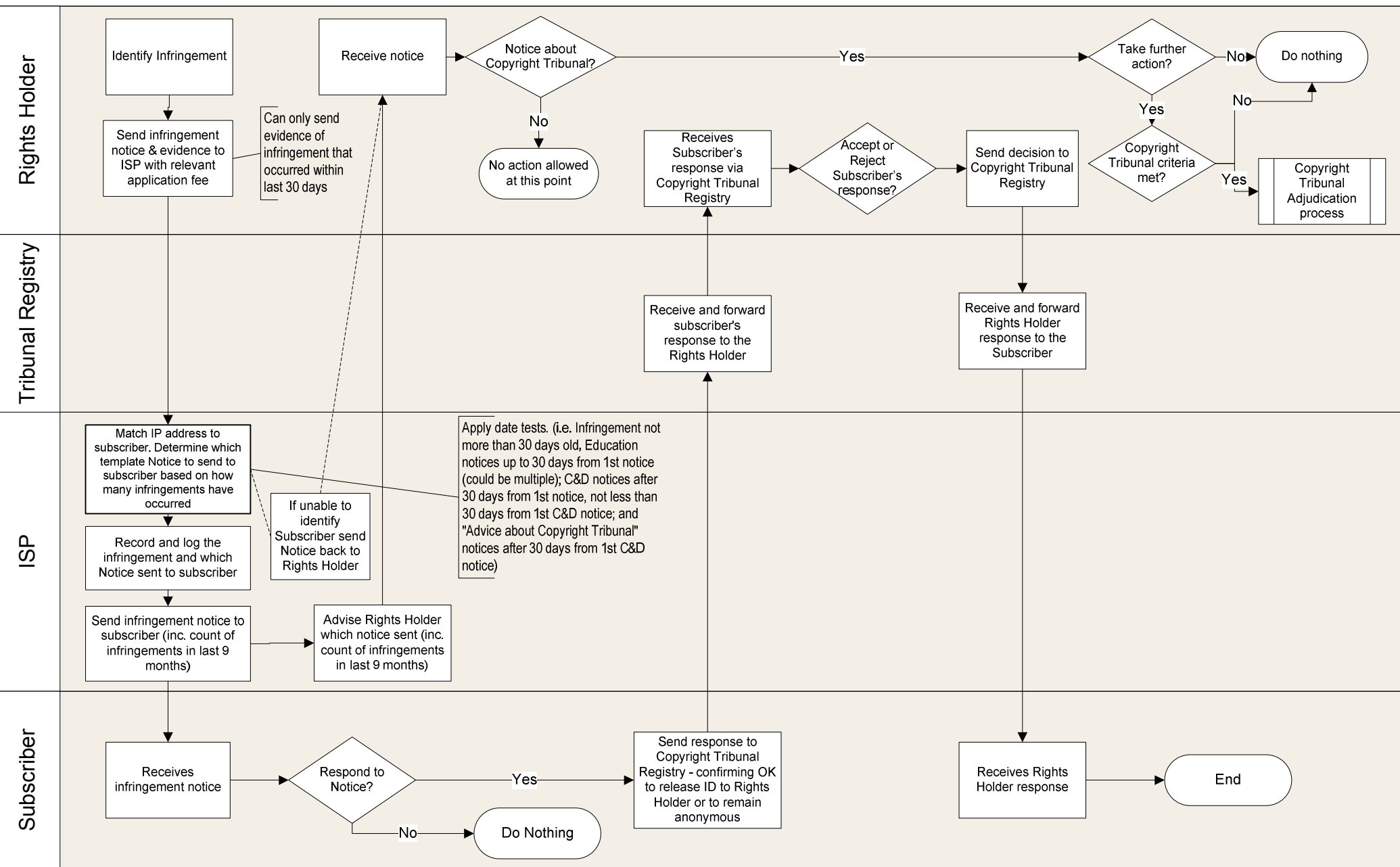




ISP intermediation problems

- ❑ Allegation only?
- ❑ Proportionality of termination remedy
- ❑ Termination doesn't work anyway
- ❑ ISP liability issues
- ❑ Slippery slope
- ❑ Privacy
- ❑ ISP control – net neutrality
- ❑ Technically complex
- ❑ Legally complex

Infringement Notice Process s92a - proposed



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