

INTERNATIONAL INTELLECTUAL PROPERTY ALLIANCE

2006 SPECIAL 301

SPECIAL MENTION

NEW ZEALAND

In 2006, New Zealand enters the sixth year of its effort to reform and modernize its Copyright Act. USTR should encourage the government in New Zealand to move forward, but only after making changes to the recommendations in the 2003 Cabinet Paper that has provided the blueprint for reform efforts so far. In particular, new legislation in New Zealand should:

- refrain from enacting an exception for format shifting, and expanding the existing exception for time shifting, both of which could undermine innovative channels for delivering music and other copyrighted materials online;
- avoid distorting the licensing market by creating a blanket exception to protection for libraries that make digital materials available to remote users;
- include provisions that give Internet Service Providers strong legal incentives to cooperate with copyright owners in combating online piracy;
- provide broad coverage for technological protection measures, and carefully limit exceptions to the prohibitions on trafficking in circumvention devices or services; and
- extend the term of copyright protection for all categories of copyrighted works to reflect emerging international trends.

Prompt adoption of copyright reform legislation reflecting these changes should be a top priority for New Zealand, as it will enable the government to grapple more effectively with a growing digital piracy problem within the country, as well as to advance toward accession to the WIPO Internet Treaties (WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty). The government should also take whatever steps are necessary to ensure that adequate protection is provided against camcorder piracy – the unauthorized operation of audiovisual recording equipment in a theater while a film is being screened – since, on a worldwide basis, pirate audio-visual products are sourced to professional camcorder pirates over 90% of the time.

Piracy and Enforcement Issues: Pirated entertainment software products continue to be imported into the country from China, Malaysia, and Thailand, though the Customs authority has done a relatively good job at seizing pirated products at the borders. Internet piracy of these products is growing, while piracy at flea market venues and at Internet cafés continues to be problematic. The government is reportedly working on creating standards to govern Internet café establishments in the country, and should be encouraged to include provisions requiring that cafés utilize only legitimate or licensed products.

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