



**Online Copyright Infringement
Public Consultation
Submission**

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About CHOICE

Set up by consumers for consumers, CHOICE is the consumer advocate that provides Australians with information and advice, free from commercial bias. By mobilising Australia's largest and loudest consumer movement, CHOICE fights to hold industry and government accountable and achieve real change on the issues that matter most.

To find out more about CHOICE's campaign work visit www.choice.com.au/campaigns and to support our campaigns, sign up at www.choice.com.au/campaignsupporter

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Executive Summary:

CHOICE wants to see an efficient and competitive Australian market for creative content and for artists and creators to be compensated for their work.

This submission presents evidence that market-led innovation to provide low-cost and universal digital access to creative content has had remarkable success in reducing illegal downloading.

The Attorney-General's Department is seeking views on proposals to (1) hold ISPs responsible for preventing users of their services from infringing copyright and (2) to enable content owners to request, and the courts to issue, injunctions blocking Australian internet users from accessing websites that host infringing content.

We find the Government proposals to be ineffective, risky and costly law reform that is poorly scoped.

CHOICE will not support policies that if implemented will make essential internet services more expensive unsupported by any evidence that rates of online copyright infringement will be reduced.

We recommend that the Government turn its attention to removing barriers that sustain artificially high prices for identical digital products in comparison to prices offered in international markets as the most effective and efficient method of reducing online copyright infringement.

Recommendation 1: Authorisation liability should not be extended.

Recommendation 2: Extended injunctive relief reforms should not be introduced.

Recommendation 3: Amend the *Copyright Act 1968* to clarify that consumer circumvention of geoblocking is legal, and provide education as to how this may be done and whether it will affect consumers' rights under existing law.

1. Defining the problem:

CHOICE research has consistently shown that consumers are paying significantly more for identical digital products than consumers in comparable markets, such as the USA or the United Kingdom.¹ These high prices are clearly linked to the lack of competitive pressure faced by content delivery businesses in Australia, rather than higher costs such as rent, wages or transport.²

Technological measures that allow suppliers to discriminate against Australian consumers (such as the identifying of IP addresses) are anti-competitive where they result in significant price differentials for Australian consumers.³

Providing Australians with universal access to digital content at a comparatively reasonable price will give consumers a greater incentive and opportunity to access content legitimately.

Australian laws should not support anti-competitive technological measures. In order to expose consumers to the benefits of competition, the Government should prioritise reforms that address the lack of competitive pressure in some content delivery industries by giving Australian consumers greater access to a range of competitively priced goods and services from overseas, including entertainment products such as music, television programs and movies, books and games.⁴

CHOICE believes that it is vital to address the underlying issues that are likely to be driving access to content in breach of copyright law, rather than impose burdensome regulations on multiple industries that have been demonstrated to be both costly and ineffective in other jurisdictions.

¹ CHOICE, 26 May 2011, 'Submission to Productivity Commission - Inquiry into the Economic Structure and Performance of the Australian Retail Industry', available at http://www.pc.gov.au/_data/assets/pdf_file/0009/109746/sub082.pdf

² House of Representatives Standing Committee on Infrastructure and Communications, July 2013, 'At what Cost? IT pricing and the Australia Tax', available at http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=ic/itpricing/report.htm

³ CHOICE, 16 July 2012, 'Submission to House Standing Committee on Infrastructure and Communications Inquiry into IT Pricing', available at http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=ic/itpricing/subs.htm

⁴ CHOICE, 10 June 2014, 'Submission to Competition Policy Review - Issues Paper', available at <http://competitionpolicyreview.gov.au/files/2014/06/CHOICE.pdf>

2. Extended Authorisation Liability

Summary:

- Extending authorisation liability is likely to result in a system that lacks due process, proportionality and certainty.
- Overseas experience demonstrates that the type of industry schemes envisaged are likely to be costly and ineffectual.
- There is a substantial risk that the costs of this policy will be passed on to consumers.

Recommendation:

- Authorisation liability should not be extended.

Practical implementation: lacking proportionality and certainty

The extended authorisation liability policy proposal recommends that the Commonwealth *Copyright Act 1968* (the Act) be amended to alter the test for determining whether a person authorised an infringing act. As the Act stands, the court must consider the following three factors:

- a) Whether the person had the power to prevent the infringing act;
- b) The nature of the relationship between the parties; and
- c) Whether the person took any reasonable steps to prevent the infringement (including complying with any relevant industry schemes).

The proposal put forward suggests removing the ‘power to prevent’ element, in order to make it easier to hold ISPs responsible for their customers’ actions.

CHOICE has serious concerns that the implementation of this policy will encourage ISPs to terminate users’ accounts on the basis of unsubstantiated allegations made by content owners, due to a need to rely on the safe harbour provisions in the absence of an industry code or legislative guidance on what constitutes ‘reasonable steps’. The discussion paper states that the government is looking to industry to reach agreement on an appropriate industry scheme, but content owners will have no incentive to do so when the default will be so advantageous to them.

The reform outlined appears likely to result in an extra-judicial process that places significant power in the hands of content owners, with consumers having little to no safeguards in place to protect them from unfounded accusations of copyright infringement. This could lead to disproportionately severe or improper sanctions as ISPs are incentivised to act immediately on accusations, rather than invest money into investigating or opposing these.

The proposal also provides the Government with the power to prescribe a scheme if an effective agreement is not reached by industry. CHOICE is concerned that this power will effectively give the government carte blanche to implement any measures it chooses without being required to submit to parliamentary oversight. This creates significant uncertainty, and leaves the door open for a range of sanctions to be introduced to punish alleged copyright infringers. While the paper states that the government doesn’t expect sanctions to include any interruption of users’ internet access, the proposal as it is presented leaves this option (and all other options) on the table. CHOICE opposes the introduction of any sanctions, particularly the termination or interruption of consumers’ access to the internet.

The overseas experience

The discussion paper suggests that Australia has much to learn from overseas experiences in implementing similar policies; CHOICE agrees. Similar schemes implemented in international jurisdictions have failed to reduce online copyright infringement. Independent research has shown that these policies have failed to lower rates of online copyright infringement.⁵ CHOICE notes that further independent and neutral research is needed in order to assess the costs and benefits of any proposed policy. CHOICE urges the government to place little weight on research conducted by industry groups with vested interests, due to the potential for bias to distort the conclusions contained within such papers. CHOICE urges the government to undertake or commission such research to inform a Regulatory Impact Statement, before committing to any particular scheme.

The Minister for Communications has stated that these sorts of schemes require litigation as an end step in order to successfully reduce copyright infringement at all. Overseas, there has been an observable reluctance on the part of content owners to commence litigation against individuals, due to financial and reputational costs. Since the New Zealand scheme described in the discussion paper was introduced, only one content owner has utilised its new ability to serve notices and litigate, and it has done so on a very limited number of occasions.⁶ The policy proposal as described seems likely to shift enforcement responsibility from copyright owners and onto ISPs, enabling copyright owners to enjoy the benefits of their copyright without actually having to take any active steps to enforce those rights. This policy seeks to minimise risk for copyright owners, while placing an unreasonable burden on ISPs and internet users.

CHOICE is also concerned that, in the absence of a requirement for copyright owners to bear the full costs of this policy, these are likely to be passed on to consumers who do not engage in conduct that breaches copyright law. Overseas examples demonstrate that comparable policies have been costly. The French government spent tens of millions of euros implementing and administering its copyright infringement “three strikes” procedure.⁷ Even with this substantial investment, during the life of the policy only one internet user received a “third strike” penalty.⁸

In New Zealand, the costs of issuing copyright infringement notices are partially borne by the content owners, who are required to pay \$25 per notice issued.⁹ Despite this, it has been

⁵ R Giblin, 2014, ‘Evaluating Graduated Response’, 37 Columbia Journal of Law & the Arts 147-209; Monash University Faculty of Law Legal Studies Research Paper No. 2013/56, available at <http://ssrn.com/abstract=2322516>

⁶ J Taylor, 1 August 2014, ‘Rights owners must sue mum and dad copyright infringers: Turnbull’, available at <http://www.zdnet.com/au/rights-owners-must-sue-mum-and-dad-copyright-infringers-turnbull-7000032225/>

⁷ R Giblin, 2014, ‘Evaluating Graduated Response’, 37 Columbia Journal of Law & the Arts 147-209; Monash University Faculty of Law Legal Studies Research Paper No. 2013/56, available at <http://ssrn.com/abstract=2322516>. Note that there is no data available estimating the additional costs paid by ISPs.

⁸ S Shankland, 10 July 2013, ‘French three-strikes law no longer suspends net access’, available at <http://www.cnet.com/news/french-three-strikes-law-no-longer-suspends-net-access/>

⁹ Earlier modelling of a scheme in the UK estimated a per notice cost of approximately \$30. More recent estimates suggest a set-up fee of AUD\$1.8m, with annual ISP costs of AUD\$178,000 (based on currency conversion of GBP1 to AUD1.78. See S Letts, 3 July 2014, ‘Why do online pirates continue to sail the web?’

estimated that each notice costs ISPs up to \$79 out of pocket.¹⁰ Some content owners have also complained that even these subsidised costs are too high for them to bear, being disproportionate to the benefits that issuing notices provides.¹¹

Unless the Government intends to fund an Australian scheme, these costs will need to be borne by content owners or ISPs. This is likely to lead to higher prices for consumers, for content and/or internet services, as businesses seek to recover costs spent in implementing and maintaining the scheme. CHOICE opposes any policy that requires internet users generally to shoulder the financial burden.

Due process: concerns and risks

The proposal as described raises serious concerns in relation to due process, including:

- The potential for false allegations to be made;¹²
- Sanctions being imposed against non-infringing parties;¹³
- Consumers having no way of challenging accusations and making complaints; and
- ISPs having an incentive to take punitive action against users without sufficient evidence of infringement.

Privacy hazards

CHOICE believes that ISPs should not be required to closely monitor the users of their services, particularly in instances where there is a lack of evidence to demonstrate that those users have committed any infringement.

In circumstances where ISPs are required to monitor consumers and maintain databases including contact details, it would be necessary to implement safeguards to ensure that details are secure, and not able to be accessed by other parties.

3. Extended Injunctive Relief

Summary:

- Internet filters are burdensome and ineffective at preventing online copyright infringement.
- This is an unjustified use of public resources that risks limiting access to legitimate content.

Recommendation:

- Extended injunctive relief reforms should not be introduced.

¹⁰ R Giblin, 2014, 'Evaluating Graduated Response', 37 Columbia Journal of Law & the Arts 147-209; Monash University Faculty of Law Legal Studies Research Paper No. 2013/56, available at <http://ssrn.com/abstract=2322516>.

¹¹ NZ FACT, a New Zealand film and television industry association, has stated that it wants the \$25 fee eliminated as the cost per notice exceeds the price paid for a single cinema ticket. See NZ FACT submission on fee review discussion available at <http://www.med.govt.nz/business/intellectual-property/pdf-docs-library/copyright/notice-process/illegal-peer-to-peer-file-sharing-submissions-on-fee-review-discussion/nzfact.pdf/view>

¹² M Piatek et al, available at <http://dmca.cs.washington.edu/>

¹³ K Duckworth, 22 November 2013, 'Infringing file sharing two years on', available at <https://www.lawsociety.org.nz/lawtalk/lawtalk-archives/issue-832/infringing-file-sharing-two-years-on>

The extended injunctive relief policy would operate by enabling content owners to seek court orders requiring ISPs to block internet users' access to overseas websites that exist primarily to infringe copyright. This process will impact a number of parties including content owners, website operators, ISPs and internet users, and it will have a public cost as court resources are diverted.

If implemented, this policy would place an enormous amount of power in the hands of content owners, enabling them to seek to have access to websites blocked on demand. This would effectively create an industry-run internet filter.

An internet filter is not a practical solution: it will not stop individuals from downloading infringing content, and it will impose an unreasonable burden on the courts and on consumers. Additionally, site-blocking has been shown to carry a significant risk of targeting sites containing non-infringing content.¹⁴

CHOICE has found no evidence to support the proposition that blocking internet users' access to websites will significantly reduce online piracy. For example, popular torrent site the Pirate Bay has been blocked in the UK since 2012, following an injunction order. Despite this, the UK was recorded as having the third largest percentage of internet users pirating Game of Thrones earlier this year, more than some countries where the site is freely available.¹⁵ Blocking Pirate Bay did not only fail to reduce online piracy in the UK in general, it also failed to reduce the number of users accessing the blocked site itself.¹⁶

Internet users can circumvent site blocks in a variety of ways. They can use Virtual Private Networks (VPNs), Smart Domain Name Systems, browser plug-ins, mirror and proxy sites. Innovation in this space will continue and further reduce the likely efficacy of the policy.

ISPs will face costs in implementing the infrastructure necessary to block access to sites, in developing and maintaining appropriate customer care, and in responding to injunction applications. These costs will be passed on to all internet users, regardless of whether they access websites that host infringing material or not. The proposed extended injunctive relief system is likely to result in unreasonable costs for consumers, and will have little to no impact on online copyright infringement.

In addition to monetary costs, CHOICE notes that internet filters have the potential to degrade the speed or quality of internet services. The discussion paper does not suggest a particular mechanism for ISPs to use in order to facilitate this filter, but a government report released in 2008 found that all filtering tools tested degraded internet performance.¹⁷

¹⁴ B Grubb, 5 June 2013, 'How ASIC's attempt to block one website took down 250,000', available at <http://www.smh.com.au/digital-life/digital-life-news/how-asics-attempt-to-block-one-website-took-down-250000-20130605-2np6v.html>

¹⁵ Ernesto, 7 April 2014, 'Game of Thrones Premier Triggers Piracy Craze', available at <http://torrentfreak.com/game-of-thrones-premiere-triggers-piracy-craze-140407/>

¹⁶ A source at The Pirate Bay claimed that following the ban, it recorded an extra 12m visitors to the site. See L Westaway, 4 May 2012, 'Pirate Bay claims record number of visitors following ISP ban', available at <http://www.cnet.com/uk/news/pirate-bay-claims-record-number-of-visitors-following-isp-ban/>

¹⁷ Australian Communications and Media Authority, June 2008, 'Closed Environment Testing of ISP-Level Internet Content Filtering - Report to the Minister for Broadband, Communications and the Digital

4. Alternative approaches

Summary:

- There is no evidence to demonstrate that the proposals outlined above will result in more legal sales, or reduce online copyright infringement.
- Consumers want to pay to access content legally.
- Companies need to adapt to market forces and provide consumers with access to content at reasonable prices, within reasonable timeframes.

Recommendation:

- Amend the *Copyright Act 1968* to clarify that consumer circumvention of geoblocking is legal, and provide education as to how this may be done and whether it will affect consumers' rights under existing law.

The Minister for Communications recently made the following statement:

“There is an obligation on the content owners, if their concerns are to be taken seriously by government... they have to play their part to make their content available universally and affordability... if you want to discourage piracy the best thing you can do is to make your content available globally, universally and affordably.”¹⁸

CHOICE agrees that this is a very powerful argument. Increasing availability and affordability of content will be a more effective means of reducing online copyright infringement than the proposals outlined in the discussion paper.

CHOICE has conducted surveys on several digital products and has found clear evidence of international price discrimination against Australian consumers. Our research conducted for the parliamentary committee inquiry into IT price discrimination in 2012 found that Australians are paying approximately 50% more on a variety of IT products. More recently, CHOICE conducted a comparison survey of iTunes Australia and iTunes US pricing for movies. This survey found that Australians are paying between 22 and 95 per cent more for popular films.¹⁹

A large part of the problem stems from the monopolisation of distribution channels. When content is available through only one channel, competition is stifled and consumers suffer detriment. For example, the popular HBO show *Game of Thrones* was available for Australian consumers to access via iTunes or Foxtel during its third season. When purchased via iTunes, consumers were able to access the episodes 24 hours after they aired in the US, at \$3.50 an

Economy’, available at http://www.acma.gov.au/webwr/_assets/main/lib310554/isp-level-internet-content-filtering-trial-report.pdf

¹⁸ L Taylor, 31 July 2014, ‘Malcolm Turnbull: ISPs should not have to sanction illegal downloaders’, The Guardian, available at <http://www.theguardian.com/world/2014/jul/31/malcolm-turnbull-isps-should-not-have-to-sanction-illegal-downloaders>

¹⁹ CHOICE, 10 June 2014, ‘Submission to Competition Policy Review Issues Paper’, available at <http://competitionpolicyreview.gov.au/files/2014/06/CHOICE.pdf>

episode. By contrast, season 4 was available only to Foxtel subscribers, at the price of approximately \$50 an episode²⁰.

CHOICE does not believe that Australia's policy framework should support commercial strategies that sustain artificially high prices, or support industries that refuse to innovate. Government policy should focus on enabling consumers to benefit from the international economy in the same way businesses have been able to, and not create or sustain barriers to effective competition.

While the film and television content industries are preventing consumers from accessing products and inflating prices, some participants in the music industry have been more willing to respond to new competitive pressures by altering their distribution channels to better match consumer expectations and preferences. Streaming services such as Pandora and Spotify are gaining in popularity, with the latter experiencing a 128 per cent revenue increase from 2013 to 2014.²¹ This kind of adaptation to new market pressures is likely to be an effective means of combating online copyright infringement. A 17 per cent decrease in music piracy in 2012 has been attributed to the increased availability of legal music streaming services²², and a 2011 Swedish study considered a 25% decrease in that country's music piracy rate between 2009 and 2011 was also likely due to the take-up of Spotify by consumers²³.

CHOICE recently invited consumers to tell us their stories about trying to legally access content online. We received 198 submissions from frustrated consumers who want to access content legally, but have been unable to do so. Key themes from these submissions are outlined in the Appendix to this submission.

The digital marketplace brings with it both opportunities and risks, for consumers and businesses alike. Companies should adapt to market forces and provide consumers with access to content at reasonable prices, within reasonable timeframes. The government should not impose regulations that place a burden on consumers in order to protect an industry that refuses to adapt to new market pressures.

Consumers will pay for content; the current estimated 200,000 Australian subscribers to Netflix demonstrate this.²⁴ Netflix is in fact the second most popular paid-content subscription service in Australia, even though the company is not officially available here, conducts no marketing in Australia, has no Australian service channel and actively prevents Australians from accessing its services.²⁵

²⁰ Once installation fees and minimum subscription periods are accounted for. For details, see Appendix.

²¹ D Freed, 20 March 2014, 'A Brave New World: Spotify and the Future of Music', available at <http://harvardpolitics.com/covers/brave-new-world-spotify-future-music/>

²² The NPD Group, Media Release, 26 February 2012, 'The NPD Group: Music File Sharing Declined Significantly in 2012', available at <https://www.npd.com/wps/portal/npd/us/news/press-releases/the-mpd-group-music-file-sharing-declined-significantly-in-2012/>

²³ Ernesto, 28 September 2011, 'Music Piracy Continues to Decline Thanks to Spotify', available at <https://torrentfreak.com/music-piracy-continues-to-decline-thanks-to-spotify-110928/>

²⁴ A Pinantoan, 10 July 2014, 'How Netflix is Doing in Australia: 2 Stats That Should Scare Foxtel and Quickflix', available at <https://getpocketbook.com/blog/netflix-australia-2-stats-scare-local-players/>

²⁵ Ibid.

When evaluating options for dealing with online copyright infringement, it is vital to consider the driving forces that lead consumers to engage in this conduct. Content owners that cannot justify charging Australians higher prices need to adapt and offer more competitive options.

CHOICE urges the government and industry to prioritise making content universally available at comparatively reasonable prices, in order to reduce instances of online copyright infringement and encourage legal consumption of content.

Specifically, CHOICE recommends that the government do the following in order to enhance competition and improve accessibility, availability and affordability of content for Australian consumers:²⁶

- a) Develop a program to monitor and publicly report pricing for digital goods both domestically and overseas;
- b) Remove all parallel import restrictions, to provide Australians with access to cheaper, genuine goods;
- c) Amend the *Copyright Act 1968* to clarify that consumer circumvention of geoblocking is legal, and provide education as to how this may be done and whether it will affect consumers rights under existing law;
- d) Clarify 'fair use' rights and consider the creation of a digital 'right of resale';
- e) Amend the *Competition and Consumer Act 2010* so as to ensure that intellectual property licences are not exempt from some parts of Australia's competition law;
- f) Restrict businesses from using geoblocking, or from entering into contracts seeking to enforce geoblocking, if the above measures do not work; and
- g) Consider alternative industry-led initiatives which prevent legitimate advertising appearing on and contributing funds to sites that facilitate online copyright infringement.²⁷

²⁶ For further details, see recommendations 1 and 4-10 of the House of Representatives Standing Committee on Infrastructure and Communications, July 2013, 'At what Cost? IT pricing and the Australia Tax', available at http://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=ic/itpricing/report.htm

²⁷ For example see <http://jicwebs.org/digital-trading-standards-group-good-practice-principles/dtsg-information-and-forms/151-dtsgsignatories>

5. Appendix – Consumer experiences

Almost one third of those who contacted CHOICE noted that they have been completely blocked from accessing content that they want to purchase, even though the content is available for digital purchase from overseas-based websites. Some of these submitters felt pushed into accessing material via torrent sites due to the lack of legal purchasing options available.

Consumer Experience: Blocked from Access

Samantha* wanted to watch a number of TV programs while recovering from an operation - Girls, Orange is the New Black and Burton & Taylor were all on her “must buy” list.

These programs were all available for download on the US iTunes store only, and Samantha was blocked from purchasing them.

“I was very happy to pay... [but] I wasn't able to. And so a friend who'd already discovered that it couldn't be done legally from here delivered them on a hard drive, and I watched all three not having paid a cent.”

William had a similar experience, when Foxtel stopped broadcasting a show after five episodes. He wanted to pay to watch the show, but can't find it for sale anywhere in Australia.

“The entire season can be downloaded in HD from a torrent site in about an hour. So what would you do? Fly to America to watch it?”

International price discrimination was an issue raised by nearly half of all respondents. Pricing is increasingly transparent on the internet, and consumers are understandably frustrated to see that content that is available for download from a website based overseas is often much cheaper than the prices offered on Australian sites.

Consumer Experience: Price Discrimination

Some consumers who spoke to CHOICE were angered or confused by obvious price discrimination.

“I feel outraged when I see that the Blues Brothers is \$9.99 from iTunes U.S. but to buy it from iTunes Australia the price is \$16.99! This is a 70% price increase just for being Australian!”

“Why does the same song from iTunes cost 70% more in Australia than it does in the US or UK? It's delivered from the same servers.”

“I was going to buy [video game] Civilization 5 a few weeks ago, but then noticed that it was \$70 AUD. In the US, from the exact same online digital distribution system, it's \$30 AUD. I don't want to pay twice as much for the exact same thing as somebody else... when you know you're getting ripped off, it's quite demoralising”.

Many consumers also expressed concerns about delays in receiving legal content in Australia. To stay socially connected, it is important to Australians that they be able to access content at the same time as consumers overseas. These Australian consumers are passionate fans of the media that they consume, and they are more than willing to spend money on these products. Despite this, the market is not providing for them. This is a clear market failure resulting in a deadweight loss that is damaging to consumers and business alike. Being blocked from accessing content that is available to other audiences encourages Australians to seek out ways to overcome these enforced delays.

Consumer Experience: Delayed Releases for Australians

Andrew wants to be able to access content in a timely manner:

“Often you can eventually buy the same thing as the US gets in Australia, but it's months later. That might have worked when the internet didn't exist, but now there's a global social media... you can't really engage with the things you love unless you're up to date with what's happening, and how can you get up to date if nobody is selling it to you?”

Eleanor, another consumer dealing with the same issue, found that her best option was to “hide the location of my ISP. This allows me to watch the show legally and literally within hours of the show airing in the US”.

Eleanor is also a paid Netflix subscriber, and tells CHOICE that “this is about getting the shows we want in a TIMELY manner - not over 6 months later. This is also about paying a fair price for our shows... illegal downloading is not about avoiding paying”.

Consumers are increasingly seeking out ways to circumvent geoblocking and access the content when and how they want to, without being forced to pay higher prices.

Consumer Experience: Finding a More Competitive Deal

Anthony enjoyed watching Orange is the New Black, a show available on Netflix. He purchased season 1, and wanted to purchase season 2 but found that:

“...not only do [Australians] pay a mega-premium, we’re also subject to release delays. It’s only up to [episode three of season two] in Australia, despite the whole season already being out [overseas].”

Anthony still wanted to legally access the show, but didn’t want to be subject to release dates that only applied to Australian consumers. He paid for a VPN service and used this to subscribe to American-based Netflix.

Anthony was able to access the content without infringing copyright law for just 10% of the price he was previously paying for his Australian-based service. In addition to the lower cost, he was able to watch the show when he wanted to and was not restricted to using a particular device.

Anthony voted with his feet and found a much more competitive deal - CHOICE believes that excessive regulations that punish consumers should not be introduced in order to benefit an industry that refuses to compete. Rather, consumers like Anthony should be encouraged to access legitimate content like Netflix at comparatively reasonable prices.

Consumer Experience: Unreasonable Prices and Monopolies

Like a large number of consumers who contacted CHOICE, Clare is a fan of Game of Thrones. She purchased Season 3 of the show through iTunes, because she was able to download each episode 24 hours after it was screened for a “reasonable price of \$35”.

However, Clare found that this option was no longer available to her when Season 4 of the show was airing.

“This year the only legal way to watch [it] in Australia was to purchase Foxtel. This meant that instead of paying \$35 to watch Game of Thrones, it would cost me \$520 [including installation fees and a minimum 6 month subscription period].”

Clare urges the government to consider options for “supporting choice and competition at prices aligned with the rest of the world” in order to tackle online piracy effectively.

*All names changed to protect privacy.