

Submission on the Copyright (New Technologies and Performers' Rights) Amendment Bill

To the Commerce Committee

Introduction

This is a personal submission from Timothy Richard Musson.

I oppose the legal protection of Technical Protection Measures (TPMs).

Sections 226A through 226E of Clause 89 essentially restrict the development, distribution and use of TPM circumvention tools and information to “qualified persons” (prescribed libraries, archives, and educational establishments).

My reasons for opposing the legal protection of TPMs

According to the bill's general policy statement, the “key principle that guides copyright reform in New Zealand is the enhancement of the public interest”. Sections 226A through 226E contradict that principle for the following reasons:

- Sections 226A and 226C create a new restriction on speech, limiting what the public is permitted to say and know about the digital technology we increasingly depend on.
- TPMs allow issuers to invent arbitrary restrictions that control customer behaviour and harm competition. For example, music bought from one company's music store will play on that company's music players, but won't work with competing products. By legally protecting TPMs, customer lock-in is encouraged.
- TPMs are an artificially imposed barrier to interoperability. Laws protecting TPMs encourage intentionally incompatible file formats, software, and devices.
- Laws protecting TPMs discriminate against Free and Open Source Software, limiting the ability of the public to create and use its own alternatives to proprietary software. Increasingly, new devices, computer components, and file formats incorporate TPMs. Unless the Free and Open Source Software communities remain free to create software capable of circumventing TPMs, the public (and the government) will eventually have no practical alternative to proprietary software.