

1. REPEAT INFRINGER POLICY - SUMMARY

This document provides a summary of the policy implemented by iiNet Limited and each of its subsidiaries. The policy is required by the *Copyright Act 1968 (Cth)*.

In particular, it sets out the conditions under which iiNet will terminate, in appropriate circumstances, the accounts of repeat infringers.

2. NOTIFYING IINET OF ALLEGED COPYRIGHT INFRINGEMENT

Any third parties sending iiNet allegations of copyright infringement occurring on iiNet's network, must comply with a procedure defined by iiNet. The notifications must be sent to the correct address and in the correct format, they must be appropriately authorised and must meet 'cogent and the unequivocal' evidentiary standard, appropriate payment and indemnity guidance of the Australian Federal Court.

If a notifier provides iiNet with a compliant notification, iiNet will:

- a) determine the account holder, if any, to whom the notification relates at the time; and
- b) issue an appropriate notice to the account holder.

iiNet may take a course of action, reasonably established to prevent infringing activity, as decided (by iiNet) to be appropriate in the circumstances. Such measures may include shaping, suspension and termination of the service.

3. CATEGORY A ACTIVITIES¹

3.1 Steps leading to termination of the accounts of repeat infringers

- (a) iiNet will determine when notifications reach a Termination Level². iiNet will ensure that the account holder has been clearly informed of their responsibilities under the terms and conditions of their agreement with iiNet, including the right of iiNet to terminate the account.
- (b) If, in iiNet's opinion, the infringements are unlikely to cease, iiNet will write to the customer informing them that their account will be terminated after 30 days of the advice.
- (c) iiNet will not terminate customer accounts where:
 - (i) the Copyright Owners making the allegations have not paid associated costs;
 - (ii) the account is the subject of an unresolved dispute regarding the allegations; or

¹ **Category A activity** - A carriage service provider carries out a Category A activity by providing facilities or services for transmitting, routing or providing connections for copyright material, or the intermediate and transient storage of copyright material in the course of transmission, routing or provision of connections. (Copyright Act 1968 - Sect 116AC)

² **Termination Level** means a level of repeated instances of copyright infringement in relation to a particular customer account, having regard to the number of separate and distinct materials in which copyright exists and the length of time of the infringement.

- (iii) the circumstances are not ‘appropriate circumstances’ to terminate the customer account within the meaning of the Copyright Act.

3.2 **Termination of accounts in circumstances other than by way of third party notification**

In addition to the circumstances set out in section 3.1 above, iiNet will terminate the account of one of its account holders, in circumstances where either of the following conditions has been satisfied:

- (i) a ruling from a court with appropriate jurisdiction that an account holder, has repeatedly infringed copyright using a service provided by iiNet;
- (ii) where an account holder admits that they have repeatedly infringed copyright using a service provided by iiNet.

iiNet will not terminate customer accounts where the circumstances are not ‘appropriate circumstances’ within the meaning of the Copyright Act.

4. **CATEGORY C AND CATEGORY D ACTIVITIES**³

4.1 **Termination of accounts of repeat infringers**

- (a) Where the CEO is reasonably certain that:
 - (i) an account holder has repeatedly infringed copyright in respect of a Category C or D Activity; and
 - (ii) the account holder has exceeded the Termination Level,iiNet will write to the customer informing them that their account will be terminated within 30 days of such notice.
- (b) iiNet will not terminate customer accounts in respect of Category C or D Activities where:
 - (i) the account is the subject of an unresolved dispute regarding the allegations of copyright infringement contained in a notification;
 - (ii) there are other facts or matters which mean that the circumstances are not ‘appropriate circumstances’.

³ **Category C activity** - A carriage service provider carries out a Category C activity by storing, at the direction of a user, copyright material on a system or network controlled or operated by or for the carriage service provider.

Category D activity - A carriage service provider carries out a Category D activity by referring users to an online location using information location tools or technology. (Copyright Act 1968 - Sect 116AC)