



13 October 2014

Mr David Hatfield  
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Dear Mr Hatfield

## **COMMUNICATIONS ALLIANCE AUTHORISATION APPLICATION**

Ai Group appreciates the opportunity to comment on the Communications Alliance's application for appropriate ACCC authorisation to facilitate its proposal for its members to restrict advertising revenue from being directed to websites whose main purpose is to enable the infringement of copyright. Ai Group would support the ACCC granting authorisation on this occasion.

Ai Group understands the importance of taking action to protect copyright holders from online copyright infringement. However it is our view that the costs to industry of doing so should be minimised. Industry-led initiatives, such as the proposal put forward by the Communications Alliance, are preferable to onerous and often complex regulatory or legislative remedies that may be put in place. Ai Group appreciates that this is only a part of the measures that will be required to fully address the issue and protect the commercial interests of rights holders. However it is an important first step to addressing the issue at its source.

On the specific issue of the authorisation, Ai Group does not believe that the authorisation would contravene the intention of subsections 88(1A) and (1) of the Competition and Consumer Act 2010, or the conditions set out in section 90 for such authorisations. The public derives a benefit from the flourishing of creators and content that a strong and functional copyright system encourages, and the proposed arrangement would help secure this benefit. On these grounds we are supportive if the ACCC decides to grant authorisation on this occasion, and by extension, the inclusion of future parties in such an agreement. It is important to note that the scheme as currently drafted is on an 'opt-in' basis; Ai Group strongly supports providing businesses with choice over whether it is in their interests to support the scheme.

Ai Group understands that the Communications Alliance and the telecommunications industry more generally may be in a unique position to be able to gain general consensus to pursue such a scheme. However the decision by the ACCC will be an important one in forming a precedent for other sectors to follow suit, should they decide to do so. The register of signatories to the scheme, to be maintained by the Communications Alliance,

should go some way to positively reinforcing industry support for the measure, and will hopefully create an incentive for greater participation or adoption of similar measures.

It will be important that the implementation of the scheme by individual businesses be monitored by the Communications Alliance to evaluate its effectiveness over time. Ensuring that there are metrics of success will be key to demonstrate what we expect to be a significant impact on revenue flow from involved businesses to owners of infringing websites. While Ai Group does not support a formal reporting requirement or commitment, it does support a voluntary undertaking by signatories to quantify and if possible publish the direct impact the scheme is having on revenue to these sites. This would help inform both Government and wider industry when developing future policy, or adopting similar arrangements in other sectors.

The Communications Alliance has a rich history of developing and monitoring industry-led standards, codes and guidelines across the telecommunications sector. We are confident that the proposed regime would make significant inroads into addressing this persistent and costly problem, if supported by relevant government agencies.

Again, we thank you for the opportunity to make this submission. If you require further information, please contact our adviser Joshua Saunders on 02 6233 0704 or at [joshua.saunders@aigroup.asn.au](mailto:joshua.saunders@aigroup.asn.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Burn', written in a cursive style.

**Dr Peter Burn**  
Director Public Policy