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South Korea: Copyright Act Restricts Freedom of Expression

The Centre for Law and Democracy is today releasing an Analysis of the South Korean Copyright Act. The Act attracted a lot of criticism for 2009 amendments introducing a three strikes system whereby users could have their Internet services cut off after being warned three times about copyright infringements. Further amendments in 2011 failed to address the most serious problems with the system.

"South Korea is a global leader in terms of Internet access and services, but its regime for copyright protection does not conform to international standards," said CLD Executive Director, Toby Mendel. *"The 'three strikes' system is not only very problematical by nature, but it also suffers from a serious lack of procedural safeguards against abuse."*

Addressing copyright infringements is an area of major debate globally, with wildly different perspectives taken by rights holders and Internet freedom activists. The matter is complicated because copyright is designed to foster creative output, a key freedom of expression value, but by limiting access to and the uses of creative output, it also restricts freedom of expression.

Key recommendations in the CLD Analysis include the following:

- The power currently vested in an administrative body to suspend Internet accounts should be removed. Account suspension is an extreme measure that should be imposed only in the most serious cases, pursuant to a court decision.
- Any administrative powers to warn or sanction users should be exercised by a independent body rather than a government ministry.
- Service providers should not be required take direct remedial action against users, or risk liability for not taking such action unless they have been ordered to do so by an independent body, whether administrative or judicial.
- If an administrative system for taking action against users for copyright breaches is retained, it should benefit from rigorous procedural protections which ensure that natural justice is respected.

CLD urges the Korean authorities to amend the Copyright Act to bring it into line with international standards.

The Analysis is available at:

<http://www.law-democracy.org/live/wp-content/uploads/2013/06/Korea.Copyright.pdf>

For further information, please contact:

Toby Mendel

Executive Director

Centre for Law and Democracy

Email: toby@law-democracy.org

Tel: +1 902 412 0872

www.law-democracy.org

Twitter: @law_democracy