

Copyright:

The world of digital media is a lawless place

Consumer centres start campaign for digital consumer rights: a warning for iTunes, T-Com, Nero and ciando. Petition launched.

13 July 2006 – Consumers have virtually no rights at all when it comes to digital media. This is the conclusion of a study published today in Berlin by the Federation of German Consumer Organisations (vzbv). “Terms of use, copy protection systems and patchy copyright law make the world of digital media a virtually lawless area for consumers,” according to Patrick von Braunmühl, Deputy Executive Director of vzbv. The customer orientation of many digital media providers is also inadequate. “Our study shows that existing consumer rights are ignored by providers.”

Vzbv and consumer centres have started an offensive for user-friendly copyright law and for the protection of consumer rights in the digital world. Leading providers of digital media – including iTunes, T-Com, Nero and ciando, among others – received warnings from vzbv yesterday. Brigitte Zypries, the Federal Minister of Justice, and Horst Seehofer, the Minister for Consumer Protection, can expect to be dealing with a lot of letters and e-mails from consumers over the next few weeks.

“The results of the study confirm our fears and our experiences to date,” states vzbv Deputy von Braunmühl. Users are helpless in the face of the providers’ conditions. The right to make private copies is not decided by legislators, but by the company providing the media. The draft proposal for the amendment of copyright law is not adequate to remedy these defects. “On the contrary – it could worsen the situation for users.” vzbv and consumer centres warned of a “flood of claims from providers and expensive lawyers’ bills for the parents of underage Internet users.” “The criminalisation of harmless users under the pretext of combating piracy must end once and for all,” says von Braunmühl.

vzbv challenged Federal Consumer Minister Seehofer to adopt a position, “Where is the Minister responsible for users’ interests in this discussion?” Instead of criminalising harmless private individuals, the Federal Government should consider how to effectively prevent the criminal pirate copy industry. Even for the downloading of a small number of copyright-protected files from the Internet, the legislation proposed by the government threatens a custodial sentence of up to three years, underlining the policy of “private copiers are criminals.”

Postal and e-mail campaign by consumer centres

Consumer centres want to use a postal and e-mail campaign to shake the Federal Government and members of the German parliament into action. "We call on all consumers to send a letter of protest to the relevant minister and to your local member of parliament," says Evelin Voß, of the consumer centre in Saxony. A sample letter will be provided nationwide at consumer centres, or for download from the vzbv website: <http://www.vzbv.de/go/urheberrechtskampagne>.

vzbv initiates proceedings against providers

To counter the feared flood of claims from rights owners, vzbv has started legal proceedings against the usage and licensing conditions of certain providers. Warnings were sent to the following companies yesterday:

- **iTunes:** 1) Dissemination, transfer or resale of files is not allowed. 2) Technical measures may not be circumvented or removed. 3) Conditions can be changed unilaterally to the detriment of the user at any time.
- **Deutsche Telekom AG, T-Com:** Contract conditions are completely incomprehensible and confusing. Customers of the *Musicload* download service are referred to three different places, containing the General Terms and Conditions with many cross-references.
- **Nero:** 1) Duty of storage of the original data carrier, as well as of backup copies at a secure location. 2) Upon purchase, duty to provide written information to Nero immediately, together with the name and full address of the purchaser.
- **ciando:** 1) Resale of content is expressly forbidden. 2) After successful download, the user is not permitted to withdraw from the contract.

Catalogue of demands

vzbv and the consumer centres are demanding that the government does not restrict the rights of consumers even further when reforming the copyright law. Data protection must be improved, and possible disadvantages and security risks must be avoided in the use of DRM and copy protection systems. Specifically, they are demanding the following:

- The right to make private copies must not be restricted arbitrarily by copy protection technology. A franchise clause must guarantee that users will not be punished when circumventing technical restrictions if this is done in order to pursue legitimate use (e.g. backup copies, change in format) in the private sphere. Instead, punishment should concentrate on mass distribution and commercial piracy.

- Forbid DRM and copy protection systems that disrupt the operating system and cause security and data protection risks.
- Unrestricted permission for the sending of electronic documents and for digital reading spaces in libraries. Free access to knowledge and culture must be guaranteed. This applies in particular to the results of research financed with public funds.
- The use of digital media for educational purposes. Schools must be permanently allowed to make teaching materials available in school Intranets. The permission granted until the end of 2006 must now be extended indefinitely to ensure legal and investment security for schools.
- No right to information from Internet Service Providers to release the private usage data of those allegedly infringing copyright. This must be reserved for the District Attorney's Office.

What does the Federal Government want?

According to the government, it will be even easier in the future for companies to get hold of users' personal data stored by Internet providers. "They must get rid of the copyright owner's right to information regarding third parties, just as they must get rid of DRM systems that spy on users and leave the computer open to hostile attacks," demands von Braunmühl. It is also incomprehensible, how a user is supposed to know whether an offer is "obviously illegal". According to the draft proposal, downloading from the Internet is forbidden if an "original has obviously been made public illegally". Even today, Public Attorney's offices are complaining of a flood of complaints from copyright owners. There are worrying reports that private Internet investigators in the employ of companies are knowingly offering illegal content on the Internet in order to entrap users.

Furthermore, vzbv believes that the planned reform represents a danger for the scientific community. "Training, research and education are being cut off from digital knowledge," says von Braunmühl. The sending of electronic documents by libraries is only permitted if the publishing houses do not provide their own electronic version. For schools, the right to use digital copies in lessons is only permitted until the end of 2006.

Results of the study "Digital Media Consumer Protection"

Regardless of whether they apply to music download services, electronic publications, online archives or other digital sound and image carriers, software and e-books, restrictive terms and conditions and technical protection measures are restricting legally permitted usage. The use of media is being controlled, restricted and even monitored as providers see fit. In

some cases, copy protection systems are connected with significant security gaps and possible data espionage. The manufacturer's duty to visibly indicate technical protection systems is often not observed. Complicated and very long usage and licensing conditions are often completely incomprehensible to users, while an infringement can lead to severe penalties. Infringements are usually committed out of ignorance. Current copyright law takes little notice of consumer interests. It is even forbidden to remove or change technical restrictions that demonstrably cause damages on a user's computer.

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Document downloads at www.vzbv.de:

- Study, summary and PDF file
- Background paper for amendment to copyright law
- Sample letter from consumer groups

More background information and links:

- www.consumersdigitalrights.org
- www.iRights.info