Chile's Notice-and-Takedown System for Copyright Protection: An Alternative Approach

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Supporting Documents

This short report examines a 2010 Chilean copyright law with respect to the balance struck among the rights of copyright-holders, intermediaries, and Internet users. The law establishes a notice-and-takedown system for online copyright infringement under which "notice" must come from a court. As we explain in the paper, the law offers greater certainty to intermediaries as to when content should be removed, and court oversight may well prevent some of the mistakes we have seen under the US system. On the other hand, some rightsholders have expressed dissatisfaction with the law, since having to go to court significantly raises the burden on them when requesting takedowns. Despite these objections, the Chilean Congress repeatedly rejected amendments that would have allowed for DMCA-style private takedowns, believing that the approach of relying on court orders was best for ensuring Internet users' constitutional rights were protected. Ultimately, the success of this approach will depend on how courts implement the law's processes in practice. A critical issue going forward, therefore, will be to assess how the Chilean law is being applied and whether it does in practice provide reasonable protection for all three categories of stakeholders: rightsholders, intermediaries, and users.

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