



ISPAI AGAINST SOPA

The ISPAI is fundamentally opposed to tampering with the architecture of the Internet to deal with issues such as copyright infringement. This is what the Stop Online Piracy Act intends to do, and regrettably, we are also seeing this in proposals which are finding favour with the EU such as ACTA, which the European Council gave the green light for signing in December. The ISPAI has never condoned piracy on our members services, but laws effectively censoring the Internet, reducing freedom of expression, increasing security risks and undermining the dynamic and innovative but fragile global Internet are not the way to stamp it out.

The recent trend toward regulating online content is disturbing for the openness of the Internet for many reasons. It is particularly concerning when a country such as the United States, who has historically been at the forefront of democracy and freedom of expression, proposes a type of censorship of the Internet that favours one interest group over another. To see a democratic country such as the US, push for legislation that promotes web censorship could set a terrifying precedent for the digital age. Aside from the worrying precedent, the extraterritorial impact of the laws is worrying for those operating online services in Europe also. These laws are so broadly drafted that almost no online resource would be outside of their remit.

One of the most worrying aspects for ISPs is the lack of judicial oversight and due process in these laws. SOPA allows for the US Attorney General to obtain a court order forcing ISPs to shut down access to foreign websites facilitating piracy based solely on an unproven allegation. SOPA actually encourages service providers to voluntarily shut down, block access to or stop providing their services to Internet sites, by granting them immunity and thus incentivising this kind of action. The importance of judicial oversight in these matters cannot be overstated and ISPAI has continually maintained that it is not the role of ISPs to become extra-judicial copyright police. SOPA and other SOPA-type legislation places ISPs in an impossible situation, where the fear of huge financial ramifications, forces them to react on the side of caution and take down or remove access to any content where a copyright infringement allegation is made and innocent subscribers will be left helpless in such situations.

This legislation would lead to sites which allow for third party content having to actively monitor themselves to ensure that infringement does not occur. The resulting burden would be overwhelming and would effectively impose a monitoring obligation which no online service provider could realistically sustain. SOPA aims to protect large scale corporations with outdated business models rather than tackling the problem of copyright infringement in a way that rewards creators and innovators. SOPA will effectively kill innovation at a time when digital commerce remains the key to economic growth around the world.