Combating Internet Piracy: Is the Cost Too Great?

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Introduction

The technological advances and tools available to us have provided first-world societies will a plethora of innovation opportunities. With the Internet, so much is possible and new concepts and ideas are created every day. However, with such a powerful tool, it is only natural that there will be individuals who exploit this tool for wrong or illegal reasons. Internet piracy is a serious problem that needs to be addressed and it has. The problem is that current attempts have resulted in the creation of the Stop Online Piracy Act (SOPA), the Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act (PIPA), the Anti-Counterfeiting Trade Agreement (ACTA), and the Online Protection and ENforcement of Digital Trade Act (OPEN). The conflict is not that there are attempts to combat Internet piracy. Instead, the tension lies in how exactly the Internet would be different if any of these laws were passed. As it exists right now, the Internet is an important instrument of democracy, freedom, and individual privacy. All three are important values that should not be undermined, yet so far all the attempts at fighting Internet piracy clearly undermine those three values. OPEN is an exception because it differs from the others in the sense that it is open to discussion and debate and truly welcomes the public eye to scrutinize it. Everyone must learn that Internet piracy is a real problem that must be solved; however legislation like SOPA and PIPA are not good solutions. Instead, Congress needs to consider all sides of the argument and, if necessary, develop a solution that protects everyone's rights. Otherwise, Congress should not enter a successful industry and instead let the problem solve itself.

Side A: Proponents of Anti-Piracy Legislation

By examining the side consisting of the main supporters of these bills, we find that the entertainment industry is really pushing for such bills to pass. The industry clearly has an advantage in this situation because they have a lot of money for lobbying; plus, since they are such a vast and far-reaching industry, they wield quite a bit of power and influence. The entertainment industry has used its influence to get specific laws passed in Congress and has even pushed the term "piracy" because of the negative connotation it brings when used; being involved with piracy sounds much worse than illegally downloading songs (Mirghani). As stakeholders that are on the affected end of Internet "piracy," the main argument is that Internet piracy is not only stealing from them, but it is also hurting the American economy ("History"). Senators that originally supported SOPA, such as Senator Patrick Leahy, also bring up the point that America is still recovering and trying to regain an economic foothold and Internet piracy is not helping at all (Leahy).

However, a main flaw in these arguments is that there is strong evidence that indicates otherwise. Reihan Salam and Patrick Ruffini, authors of "Innovate or Legislate," introduce a report by Michael Masnick which revealed interesting information. During 2005 – 2010, despite a weak economy in the United States in the second half of these years, households saw their share of total spending devoted to entertainment increase by 15% while the global music industry increased its

value by thirty-six billion dollars to reach 168 billion dollars (Salam and Ruffini 37). Salam and Ruffini also assert that artists willing to adapt to a new environment (the Internet) are succeeding whereas the ones that are resisting change are the ones struggling.

The sudden response against anti-piracy legislation came partly because such bills would have dramatically affected the Internet by stifling economic innovation and the freedom that the Internet provides.

Another study conducted by American Assembly, a forum associated with Columbia University, found that while piracy of music and videos is quite common, only two percent of adults who have obtained music and videos illegally have obtained the majority of their library in this way (Salam and Ruffini 37). This supports the notion that Internet piracy actually helps spread interest of artists, songs, and movies. Initially a person may illegally download a song by an artist, but upon hearing the song, that person may in turn become a fan of the artist and purchase albums and tickets to live concerts.

What the previous two paragraphs have shown is that Senator Leahy and the other supporters of SOPA and PIPA who believe that Internet piracy is hurting the economy and the artists and owners of intellectual property are wrong.

The entertainment industry and other supporters of the old SOPA and PIPA bills are also lacking in numbers compared to the masses of the Internet. These Internet users effectively stopped SOPA and PIPA in both the House and Senate by banding together as a community. Once the public learned about SOPA and PIPA, there was an outcry and the heavy scrutiny resulted in several flaws being found in the proposed legislation. One example can be found in part of SOPA that would have required search giants like Google and Yahoo! to censor entire websites and search results in addition to requiring Internet service providers to block websites that may contain pirated content. This creates an unnecessarily heavy burden on the Internet service providers, search giants, and websites – especially websites that are user-run such as Reddit, Wikipedia, and many more. Instead of handling issues case by case (as is done now), entire websites could be blocked, even if only a part of the site is found to be violating the law. Such flaws would result in the loss of freedom, privacy, and democracy to a certain degree, which is something that America, the beacon of hope and democracy, cannot undermine.

Side B: Opponents of Anti-Piracy Legislation

If we look at the other side of the spectrum we find that those that oppose these legislative attempts do *not* actually support Internet piracy. Instead, the opposite side wants to make sure that if a solution gets passed, it will not interfere with everyone's right to a free and democratic Internet. The advantages of being on this side of the controversy is that you would be with a clear majority who can actually end up holding more influence than special interest groups with excessive financial assets. When everyone rallies together and collaborates with websites, they become a force to be reckoned with.

In 2011, the entertainment industry spent ninety-four million dollars lobbying Congress to pass copyright/anti-piracy legislation; however, the masses of the Internet and Silicon Valley were able to effectively stop SOPA and PIPA simply by joining forces regardless of political, religious, or racial affiliation (Salam and Ruffini 38). The sudden response against anti-piracy legislation came partly because such bills would have dramatically affected the Internet by stifling economic innovation and the freedom that the Internet provides. Since its creation, the Internet and all of its entrepreneurs and investors have kept government an arm's length away. But with anti-piracy legislation, Congress would be trying to regulate an industry it did not understand. Opponents of anti-piracy legislation clearly saw this and did their best to stop a horrible bill from being passed.

Notice how the opponents do not agree with piracy. Stealing is still viewed as wrong. However, the values held by the masses of Internet users are fundamentally important. The United States was founded on freedom and democracy. The Internet is arguably the greatest tool of democracy at the moment. It provides a medium for everyone's voices to be heard and allows for open discussion to easily take place. Censoring that in any way is a crime against the fundamental values that the United States was founded on. In an exclusive interview with Alex Berger, drummer for local band *From Within*, he shows how someone can be a stakeholder on either side of the issue. As a band member, he firmly asserts, "We believe that it's wrong – stealing is wrong." He goes on to agree that, even though stealing music can also help promote the band and spread the word, it still does not pay off and bands need their fans to support them. However, Berger is also a strong supporter of protecting our civil liberties. He states, "People have the right to freedom of speech and of press. The government takes that away and they take away our civil liberties. I understand monitoring for safety reasons but no censorship should be allowed whatsoever."

The Situation: What is Really Going On?

The entertainment industry is pushing and lobbying Congress to find a solution against online piracy and intellectual theft, but at what cost? SOPA and PIPA were effectively stopped because of the threat they presented to a free and open Internet. But what about ACTA (which has not gotten nearly as much press coverage as SOPA)? By the looks of things, ACTA is trying to slide by below the radar of the public eye, which raises concerns. ACTA is essentially an international version of SOPA and PIPA. It is an agreement among several countries aiming to be able to control or stop Internet piracy, even if it means overlooking individual privacy and hindering innovation. If it is lying low, how can it possibly be good for democracy and its people? ACTA was already signed by several countries, including the U.S. and Japan, and was well on its way to being implemented when it started meeting resistance because of the SOPA protests. A spotlight, small but a spotlight nonetheless, was cast and some of the public was able to raise concerns about how ACTA violates privacy and freedom of speech.

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So far, Congress and other legislative bodies are approaching this the wrong way. In order for an agreement to be made that protects democratic ideals and freedoms while also protecting owners of intellectual property, there must be open discussion and clear public scrutiny. This is where OPEN differs from the other legislative proposals. While OPEN still is not the solution needed, it definitely a step in the right direction because of how transparent it is. No matter what the solution ends up being, it needs to be scrutinized by the public. This is a necessary check on possible misuse of power that censors the Internet or stifles freedom of speech and democracy in any other way. By incorporating the voices of the entertainment industry and the public, Congress has the best chance of coming up with a bill that will satisfy both sides. But if a true solution is to be found, everyone needs to understand one thing: the entertainment industry must adapt.

The entertainment industry has been trying to control the market and rid it of all competition since it tried to destroy the VCR in the 80s because it could be used to pirate movies and shows. Until then, everything was watched in theaters or on broadcast television. Obviously Hollywood lost the VCR battle, but it has fought against every new form of technology, from the CD's to mp3 players, because each of those would be harder to regulate and control (Salam and

Ruffini 37). The Internet is no different. The entertainment industry has been extremely profitable and continues to expand despite the economy; however, big record companies are finding that the traditional business model does not work in the Internet era and they are panicking. Several artists have started dealing directly with the consumer, which increases profits for the artist while also keeping prices low for the consumer. This win-win business model is more efficient and cuts out the middleman.

With the current business model involving Hollywood and big record labels as the middlemen, artists earn fifteen to twenty percent of sales. Even as the Internet cuts back on distribution costs, which saves the entertainment industry millions of dollars, artists still only get fifteen to twenty percent while the big companies pocket the rest. But by dealing directly with the consumer and allowing the consumer to consume comfortably, conveniently and affordably, as the new business model shows us, artists receive fifty to ninety percent of wholesale (Salam and Ruffini 37). Unfortunately for the sponsors of the anti-piracy legislation, this model also is shown to decrease Internet piracy because of Internet innovations such as online streaming services such as Netflix: "The emergence of Netflix's streaming-video service, for example, has coincided with a marked decline in the number of searches for BitTorrent, a hub for pirated media" (Salam and Ruffini 37). Consumers are more than happy to pay for their entertainment if it is convenient and affordable. The convenience of Apple's iTunes, Google's Play, and Amazon's online stores along with several other legal services have all created similar decreases in piracy while maintaining healthy competition with one another (Salam and Ruffini 38).

Conclusion and Solution

The entertainment industry is desperately trying to maintain control of an industry using an old business model that was extremely profitable for Hollywood and big record labels and companies. While Internet piracy is a problem that should be fixed, it should not be solve via strict and heavy laws or trade agreements such as PIPA, SOPA, and ACTA. If a law is passed, Congress should follow in the steps of OPEN by having future laws transparent and easily viewed by the public for heavy scrutiny and advice. The best solution, however, is to step back and not do anything for the time being. It is better to give the entertainment industry a chance to adapt or to crumble. The United States "captures 30 percent of all the revenues generated by the global Internet economy" (Salam and Ruffini 36), so instead of harming such a successful and unregulated industry, Congress should let it continue to grow and prosper. As stated earlier, the industry is growing (even in the middle of a hurting economy), and even though Internet piracy does have an impact, it is small and not worth Internet-altering legislation that would be a legislative, fiscal, political, and legal nightmare for everyone involved. Internet piracy was decreased by an increase in innovative services and by an increase in direct artist-to-consumer interactions because the Internet has a new business model. The entertainment industry was built on capitalism and if record companies want to continue to control the market, then they need to embrace innovation and adapt to a new economy. Congress should not interfere with the Internet and instead it should let Internet piracy be resolved on its own. If it ever gets to a point where the artists themselves are beginning to hurt because of rampant Internet piracy, then Congress should look into legislative action, but, until then, why fix what is not broken?

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