

FREEDOM OF SPEECH ONLINE: A 2013 UPDATE

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Presented By: Kimberly A. Harchuck, Esq., LL.M.
of WALTERS LAW GROUP
WWW.FIRSTAMENDMENT.COM



What a difference a year makes...

Internet Freedom Day

2012 Global Pop. = 7 billion

- 2.2 billion email users
- 1.2 trillion Google searches
- 246 million TLD registrations
- 1.1 billion Smartphone subscribers
- 2.4 billion Internet users

40 countries that openly censor the Internet.

Internet Regulation Balance: Security. Privacy. FREEDOM



What a difference a year makes...

NOTICE: THIS IMAGE HAS BEEN FOUND
IN VIOLATION OF H.R. 3261, S.O.P.A.
AND HAS BEEN REMOVED



SECURITY THROUGH CENSORSHIP
FOR MORE INFORMATION ABOUT THE STOP ONLINE
PIRACY ACT AND HOW IT AFFECTS YOU, VISIT
<http://americancensorship.org/infographic.html>



DON'T
TREAD
ON THE
INTERNET

U.S. Legislation Affecting Freedom of Speech Online

PIPA [Protect IP Act] & SOPA [Stop Online Piracy Act]

- Designed to combat online copyright infringement
- Overly broad powers given to the government
- High potential for abuse
- SOPA
 - House version – got more traction/press
 - Gave government ability to shut down sites at the domain server level
 - Unprecedented public backlash

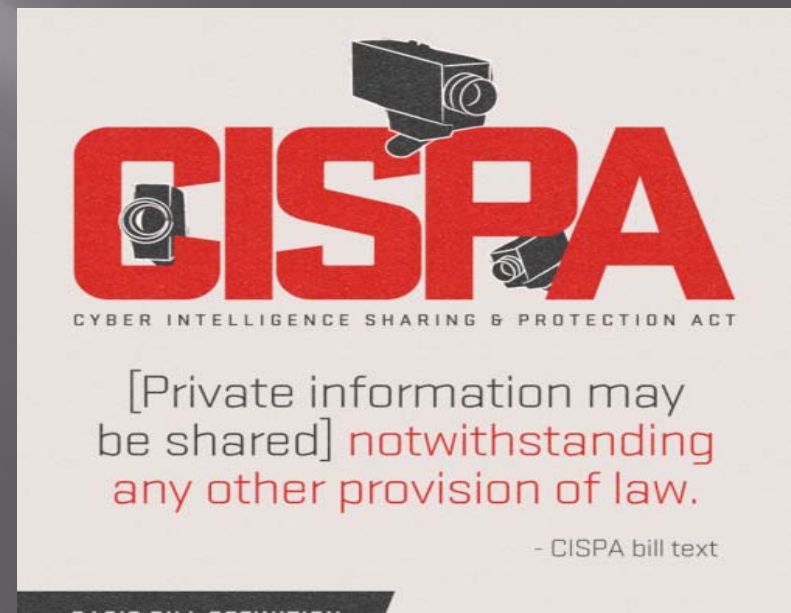
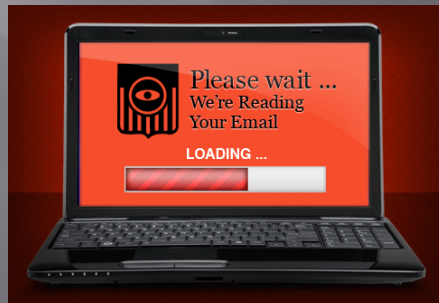


U.S. Legislation Affecting Freedom of Speech Online (cont'd.)

CSA [Cybersecurity Act] – Senate version repeatedly amended and voted down

CISPA [Cyber Intelligence Sharing & Protection Act]

- Dubbed “Internet Spy Bill”
- Requires private tech companies to share user data with government sans user consent
- Passed the House
- Potential for executive order
- Addressed by Sen. Wyden at 2013 Consumer Electronics Show



Canadian Legislation Affecting Freedom of Speech Online

Canadian Copyright Modernization Act

- drafted to parallel WIPO protocol
- Aimed to make Canada a major player in the global marketplace's digital economy
- Expands copyright holder rights and remedies: moral rights, distribution rights, making-available rights
- "Notice-and-Notice" Regime
 - ISP obligations
 - "Enabler Provision"



National Policies Affecting Freedom of Speech Online

North Korea

- Majority of citizens don't have Internet access
- Most access limited to state-operated intranet



Iran

- Blocked:
 - Most western social media (e.g. – Facebook and Twitter)
 - Political opposition sites (i.e. – “offensive” to government or advocating political reform)
 - Sexually explicit websites
 - Announced plans to create its own domestic Internet permitting only monitored content
- Announced plans to create its own domestic Internet permitting only monitored content

China's Policies Affecting Freedom of Speech Online

Most Internet users in the world (565 million)

Golden Shield Project

- ▣ Not actually a firewall:
 - mirrors and manipulates content
 - Connection/broadband control
 - URL redirection
- ▣ Internet policed by 30,000 government censors
- ▣ Blocks blacklisted sites/"harmful" content
 - Most foreign sites (e.g. – from YouTube to NYT)
 - Searches deemed "controversial topics"
- ▣ Delete politically insubordinate or pornographic content



International Regulations Affecting Freedom of Speech Online – ACTA

Anti-Counterfeiting Trade Agreement

- Establishes international standards for IP rights enforcement
 - Creates new global governing body to do so
- Requires ISP's to “monitor and censor online communications”
- 7 countries needed to ratify
 - Signed by: EU, Japan, Australia, Canada, Morocco, New Zealand, Singapore, South Korea, and US
 - European backlash after excerpts leaked negotiations done in secret)
 - EU countries refused to ratify
 - EU Parliament ultimately rejected
 - Japan is only country to ratify
 - Canada awaiting outcome of CETA
 - US awaiting outcome of TPP?



International Regulations Affecting Freedom of Speech Online – UN ITU WCIT

International Telecommunications Union

- Specialized UN agency
- 193 member countries
- Review international agreements governing telecom
- Uproar for ITU plan to address Internet regulations at 2012 conference
 - Treaty governing the agency created in 1865 and last amended in 1988
 - Established protocol does not address Internet
 - Expansion to Internet not unreasonable given past ITR evolution



International Regulations Affecting Freedom of Speech Online – UN ITU WCIT (cont'd.)

World Conference on International Telecommunications

Climate leading up to WCIT

- Controversial Russian “governance” statements
- Int’l Code of Conduct for Information Security

Over 16,000 diplomats from 151 Member States

Over 900 proposed changes to ITU regulations

- Lack of ITU publication of proposals generated “secrecy” accusations

Key ITR Internet Proposals:

- Net neutrality & Access
- Economic Impact
- Technical Standards
- Cybersecurity
- Process & Transparency
- Internet Governance Ultimate dividing



UN ITU WCIT Global Internet Governance

Dividing Issue: Revise the ITR Treaty to cover the Internet?

- ▣ Walk-out staged by US, UK and Canada
- ▣ Signed by 89 countries
 - Russia, China, Middle Eastern countries, former Soviet states, East Asia countries
- ▣ Not into effect until 2015
- ▣ Treaty is not binding law
 - Non-signatories will continue to be bound by the 1988 Treaty language
 - Participating members are not forced to adhere to the new language until their respective countries ratify the language at domestic level



UN ITU WCIT Global Internet Governance (cont'd.)

“Final Acts”: Surveillance, censorship and limited user rights?

- Final text does not explicitly refer to the Internet BUT touches on areas relevant to Internet policy (e.g. – content regulation and security)
- Arguments against:
 - ITU not equipped to make such policies
 - Language not specific enough to address issues (e.g. – unwanted SPAM messages, personal data security, etc.)
 - Language broad enough that could be interpreted as condoning content policing/censorship
 - No safeguards to ensure not infringing on speech and privacy rights
- Declarations & Reservations

“To Foster an enabling environment for the greater growth of the Internet.”

- Immediate drastic change?
- Passive acceptance of more invasive and restrictive policies?
- Digital divide?



UN ITU WCIT Global Internet Governance (cont'd.)

Countries may not agree with pro-globalization BUT are concerned with US's role in developing Internet policy.

- ▣ Status quo favors interests of western technology
- ▣ Unconcerned with assisting developing countries to gain Internet access
- ▣ Most Internet policy-making organizations are US-based, US-driven, US-centric:
 - ICANN [Internet Corporation for Assigned Names & Numbers]
 - ▣ California-based organization
 - IANA [Internet Assigned Numbers Authority]
 - ▣ managed by ICANN
 - ▣ Root zone maintained by VeriSign (Virginia corporation)
 - ▣ VeriSign's "root zone" contract with US Dept. of Commerce
 - Internet Society
 - ▣ Headquartered in Virginia
 - IAB [Internet Architecture Board]
 - ▣ Managed by Internet Society
 - IETF [Internet Engineering Task Force]
 - ▣ Managed by IAB
 - ▣ Funded by sponsors like VeriSign and the US National Security Agency

What to Expect in 2013?

Internet Governance Cold War?

Even more regulation:

- CETA
- Clean IT
- TPP



Significant censorship concerns and pressure from rights holders and governments.

Can Free Expression survive?

What to Expect in 2013 – CETA

Comprehensive Economic Trade Agreement

- Between Canada and Europe but Internet provisions could cause global issues
- Similar to ACTA:
 - Majority negotiated in secret
 - Criminal sanctions - permit increased damages for copyright infringement
 - Requires Internet Service Providers to act as copyright police or risk sanctions
- Negotiations to conclude before mid-2013

What to Expect in 2013 – Clean IT Project

- ▣ European Commission project developing framework to prevent the Internet from being exploited by terrorists
- ▣ Issues:
 - Allows government to monitor citizens' Internet activities
 - Citizens required to report “terroristic” material to ISP's
 - ISP's must remove reported material or risk penalty
- ▣ Jan 30 – Final version of proposal will be presented (although already public)
- ▣ March 1 – scheduled to go to European Parliament for vote

What to Expect in 2013 – TPP

Trans-Pacific Partnership Act

- Designed to improve US/ Asia trade relations but contains potentially abusive copyright provisions
- Only known public material is leaked language because negotiated in secrecy
- Forces US and Asian countries to:
 - Lengthen CR terms
 - Restrict fair use options
 - Institute digital locks (to prevent any form of file sharing)
 - Place policing burdens on ISP's (especially website hosts)
- Accused of going beyond the scope of standard government trade regulation (e.g. – tariff reduction and trade promotion)
 - Of the Act's 26 chapters, few directly apply to trade regulations
 - Allegedly grants unprecedented power to corporations
 - Said to be result of “backroom lobbying agreements”

Conclusion

Free Speech Online

- ▣ The future of Free Speech on the Internet will largely turn on the ability to balance the rights of content producers with the rights of publishers or service providers.
- ▣ The inability to effectively deal with the current piracy situation will result in draconian laws passed in numerous countries, resulting in significantly restricted Free Speech rights.

UN Involvement

- ▣ The need for change might be accurate but the UN treaty route is likely too slow for fast-paced innovation like the Internet
- ▣ Must examine the potential realization that a truly “Open Internet” may no longer be an option

The Internet, by design, was intended to be the ultimate platform of free speech and expression – this has only been done successfully because governments across the globe permitted it to grow organically between a perfect storm of the private sector, global marketplace, academia and voluntary standards.

Conclusion

FREEDOM

INTERNET REGULATION
TRIFECTA



PRIVACY

SECURITY

Conclusion

2012's legislation and policies were just one battle in the constant war between government regulation and the free exchange of ideas.

Unfortunately, this war shows no signs of waning in the near future.

It is crucial to remember that Internet policy-making is vastly different than traditional diplomacy in that participation in the debate is not limited to governmental bodies or elected officials. The private sector is what made the Internet and is its continued source of power. We have a voice. Freedom of speech cultivated the Digital Age, it's our responsibility to ensure that the Digital Age cultivates freedom of speech.

Conclusion

“Censorship is saying: 'I'm the one who says the last sentence. Whatever you say, the conclusion is mine.' But the internet is like a tree that is growing. The people will always have the last word.” ~Ai Weiwei