

The pros and cons of introducing anti-counterfeiting trade agreement essay sample...

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It seems rather safe to call the Anti-Counterfeiting Trade Agreement (ACTA) the most controversial treaty of a long time. It seeks, according to its proponents, to curb the illicit trade of counterfeit goods and generic medicines, as well as ubiquitous copyright infringement[1]. That last purpose appears to be the gist of the ACTA, what with intellectual-property-based organizations such as the Motion Picture Association of America being active in its development. It is also the main reason why the treaty has been so vehemently protested by Internet users worldwide, especially in Europe. The opponents of the controversial agreement claim that not only is it simply too harsh in its impositions on the operation of the Internet, but that it would seriously threaten some basic human rights, including the right to privacy. Are the opponents being hysterical? Is it possible to talk about so controversial a law without emotions rising?

Who are the authors and the supporters of the ACTA? Little does it surprise to learn they are mostly intellectual-property holders, i. e. film and music producers, printing and pharmaceutical companies, etc. They have been waging a not very successful war on the counterfeiting of their products ever since the average Internet user got a bandwidth sufficient to transfer large amounts of data in a relatively short time. They argue the losses they and their protégées (actors, musicians, authors) experience due to piracy reach the dazzling order of millions of dollars a year. It is their view that the ACTA, with its unprecedentedly low threshold of tolerance as for what constitutes a criminal offence with respect to counterfeiting, can finally put a stop to them being robbed while the perpetrators go unpunished.

Noteworthy is the fact, however, that this view, as well as support for the ACTA, is not universal in the intellectual property community. Some of its members not only see no harm in unhindered distribution of their works in the Internet, but actually encourage it or outwardly practice it, e. g. Moby making his songs available as free downloads. Does it mean intellectual-property organizations are overreacting, as their losses are not so meaningful after all? Moreover, as the ACTA would assumingly empower governments to monitor online activities of their citizens, some fear it might actually turn the Orwellian nightmare of total mass surveillance into a sad reality. And to add to the “fishy smell” of the agreement, some of the negotiations involved were allegedly held in secrecy from outside observers.

[2]

For the time being, the ACTA is not yet in force. For that to happen, 6 more signatories are needed, in addition to the 31 states that have already signed it[3]. While it might seem a small number, with the vehement protestations the signing of the ACTA has caused in the signatory countries, it seems unlikely many governments would be too willing to be the final hand on the act of which the whole thing snaps into action. Moreover, state-level ratification notwithstanding, the EU-wide ratification is being stymied until the verdict of the European Court of Justice.[4] Negotiations are still being held to make the treaty’s repercussions less abrasive to the average citizen, but what will finally become of it?

It is worth noting that the idea of monitoring on-line activities for any illegal action itself is in accordance with Article 15 of the European Directive on

Electronic commerce, which states such monitoring may be required at the request of “ competent authorities”.[5] As it is, the aforementioned European Court of Justice has already issued one verdict concerning the ACTA, one that bears the signature of C-360/10[6]. The verdict “ does not pertain directly to the directives of the ACTA but is very important from the governmental point of view as it effectively blocks the obligation to start monitoring the Internet – no government or court can impose this obligation on providers”, says Katarzyna Szymielewicz of Panoptykon Foundation. This verdict constitutes an ample obstacle for ratification of the ACTA in the EU.