Online Piracy: What SOPA Could Mean for Your Business
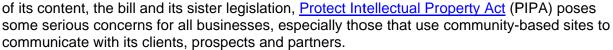
By Nancy Pekala

Don't mess with our Internet.

That was the message Internet activists, businesses and netizens alike sent loud and clear last week protesting the proposed Stop Online Piracy Act (SOPA) (HR 3261) which empowers copyright holders to seek punitive action when their material is reproduced online. While at this writing, the bill in its current form seems unlikely to pass given the opposition, it would give the Department of Justice broad powers to block access to offending content as well as ban sites that link to such content. Google, Twitter, Wikipedia and Reddit would all be at risk.

Last week, many of these sites went dark as part of a grass-roots effort to oppose the legislation. A black swatch covered the venerable Google name on its home page while Wikipedia made its English-language content unavailable.

While powered by the entertainment industry which has been struggling against the rise of online piracy of its content, the bill and its sister legislation, Protect Intellectual Property Act (PIPA) poses some serious concerns for all businesses, especially those that use community-based sites to communicate with its clients, prospects and partners.

Specifically, these two bills would pose several significant issues for businesses. First, the legislation would shift considerable cost and liability for policing copyright-infringing websites and links to businesses that have not engaged in online piracy.

During a recent Focus.com roundtable on the impact of SOPA on business, Chris Selland, CMO at Terametric, a provider of social media measurement and optimization solutions, noted, "Basically, these laws allow just about any site to be shut down with no burden of proof whatsoever. So, if your site depends on third-party contributions or third-party content, you could be held responsible and be shut down with no warning or due process."

Second, the proposed bills aim to control the Internet as a content distribution channel which would effectively burden businesses who use it for legitimate, commercial purposes.

James Slaby, Research Director for HfS Research noted that his company uses social tools such as blogs and discussion forms to communicate with clients. "It's a huge part of how we engage our community," he said. "(Under this legislation), you would have to scrub every single online comment to make sure some commenter didn't link to a site that might be deemed infringing. Your entire site could be blocked while this was sorted out in court. You'd either have to prove you weren't infringing or that the complainant was acting in bad faith. It places the cost of doing that on you. I think that's really unfair for the vast majority of businesses that are online that aren't involved in copyright infringing activities at all."

He added, "They're trying to turn the clock back to the 20th Century, back to a time when sharing of content wasn't such a huge part of what we do on the Internet. The entertainment industry needs to come up with some kind of technical approach that serves their anti-piracy aims without crushing the ability of companies and consumers to engage in pre-linking and content sharing which is effectively what a lot of this legislation achieves."

Third, the issue of online piracy is being addressed not through better enforcement of existing copyright laws, but through new legislation that inhibits the use of the Internet for businesses and consumers not engaging in online theft. New entertainment-industry revenue models could better address the issue.

Scott Albro, Founder and CEO of Focus suggested that the media industry is incorrectly trying to frame this as a content creation issue. "Their position is that since `We incur all the costs of creating content, we should benefit from the act of creating that content.' But content creation is only one small sliver of the media value chain. A really big part of the value chain is how content gets distributed and consumed."

He added, "The media and entertainment industry seems to have this view that they still own the distribution channels and we all know that's not true. This is OUR internet. When you start to reframe this issue around distribution and how content gets consumed rather than created, the issue becomes pretty black and white."

Selland agreed, stating, "The concept of attackers and defenders applies here. What you've got today is a new breed of companies who understand how to use technology and old guard publishers who have idea. It's really the Old Guard protecting their turf."

Nancy Pekala is the AMA's Senior Director of Online Content and Editor of B2B Marketing. Continue the conversation about SOPA and online piracy in the Interactive Marketing Group of AMAConnect, the AMA's online community. Follow us on Twitter @marketing_power.