

# US Internet service providers join big media in copyright crackdown

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The largest US Internet Service Providers (ISPs) joined representatives of the entertainment industry July 7 in announcing a new “copyright alert system” initiative to prevent so-called Internet piracy.

The ISPs, including Verizon Communications Inc., Comcast Corp., Time Warner Cable Inc., Cablevision Systems Corp. and AT&T Inc., will issue warnings to Internet users suspected of illegally sharing—either downloading or making available for download—legally protected content, such as music or movies. The penalties can include throttling back or cutting off outright broadband Internet connectivity.

The system of a series of six warnings to suspected users, which will be adopted universally by all the ISPs, is touted by media supporters as a more effective and reasonable alternative to criminal prosecution.

Based on notifications from the media companies of alleged infringement by individual users of copyrights, the ISP will send a series of warnings, including “educational material,” to the Internet user. Modeled after the “three strikes and you’re out” formula adopted by criminal courts, the warnings increase in severity as they progress, ultimately resulting in whatever penalties the ISP deems suitable.

These measures have yet to be specified, but presumably shutoff of Internet access and blacklisting from ability to reconnect will be a part of the system. As warnings progress, a response from the user will be required and Internet access can be restricted—slowed down or cut off completely—until the user takes the action “requested” by the ISP.

The ISPs are acting in a coalition with the Motion Picture Association of America (MPAA), the Recording Industry Association of America (RIAA), and the National Cable & Telecommunications Association (NCTA). These organizations represent the empires of the entertainment industry now dominated by a few giant

corporations, including the Walt Disney Company, CBS, Viacom and Sony.

Opponents of the measures warn of its extralegal implications. In a comment posted by Abigail Phillips on the Electronic Freedom Foundation’s (EFF) web site, “an alert represents nothing more than an allegation untried by a court, we think loss of Internet access would be a draconian measure ...”

The EFF’s intellectual property director, Corynne McSherry, describes the arrangement as one where “ISPs have agreed to serve as propaganda machines for big media.” McSherry points to the likelihood that the so-called “educational information” sent by the ISPs to suspected infringers will be “skewed toward a draconian view of how copyright law works,” ignoring the “fair use” doctrine that allows users certain limited rights to copy and share copyrighted material.

The copyright crackdown deal between big entertainment the ISPs was brokered over the last month by New York Governor Andrew Cuomo. According to press reports, the ISPs initially resisted their proposed role of policing their own users, but media response to the announcement of the agreement is overwhelmingly positive.

Victoria Espinel, US intellectual property enforcement coordinator, issued a statement on a White House blog indicating the Obama administration’s support for the initiative, based on its commitment “to reducing infringement of American intellectual property as part of our ongoing commitment to support jobs, increase exports and maintain our global competitiveness.

“We believe that this agreement is a positive step and consistent with our strategy of encouraging voluntary efforts to strengthen online intellectual property enforcement and with our broader Internet policy principles, emphasizing privacy, free speech, competition and due process.”

Those who claim that this new system of copyright enforcement is a “win-win” are ignoring, or hoping the public doesn’t notice, the elephant in the room. The joining forces of big media and the ISPs is the expression of the amalgamation of their interests through the process of corporate consolidation and government deregulation. In many cases, the ISPs—companies that provide the connectivity to the Internet for the population—have been acquired by or have acquired the same corporations that own the copyrighted material.

The rapid pace of mergers and acquisitions in the media industry—music, movies, television and radio—make it next to impossible to keep track of the vast resources controlled by the few corporate entities at the top. The *Columbia Journalism Review* web site hosts a page called Who Owns What that provides an extensive list of them. It takes little exploration to see that the major ISPs are inseparable from the corporate entities that own virtually all creative content.

As long as the Internet has existed, the large copyright holders of the music and movie industries have perceived it as a threat to their property and continually sought legal means of holding ISPs responsible for enforcing their copyrights. In these earlier legal disputes over this issue, the position of the ISPs had been that, just as the postal service cannot be held responsible for what is sent through the mail—ISPs cannot be held liable for what their customers download or upload on the Internet.

The paradigm has shifted.

The recent joint venture between Comcast Corporation, one of the largest ISPs, and General Electric (GE), the corporate giant that controls NBC Universal, was approved by the Federal Trade Commission last January. It is but the latest expression in a trend toward unrestrained conglomeration of the corporate media giants.

While there may have been initial hesitation on the part of the ISPs towards their new copyright policing role, there is now no question of their agreement on the overriding property interests expressed in the offensive against Internet “piracy.”

The consortium claims that Internet piracy costs the US economy more than 373,000 jobs, \$16 billion in lost earnings and \$3 billion in tax revenue each year. These figures are bogus, even assuming the legality of copyright ownership. These numbers are spun from the self-interest of the corporate entities involved, counting each possible download as a loss at the highest retail monetary value.

The Recording Industry Association of America was the

first to declare war against so-called Internet piracy with its much-publicized suit against the file-sharing web site Napster. Less publicized was the news in 2002 that the US Federal Trade Commission found the RIAA guilty of price fixing, by virtue of its members’ monopoly over recording industry distribution. In 2009, charges were again brought against the RIAA for colluding to keep the prices of music distributed through legal sources on the Internet artificially high, considering the huge savings in production and distribution costs allowed by online delivery.

Copyright law is continually reviewed and rewritten to protect the fortunes of the capitalists who have acquired the vast bulk of the intellectual property of modern society. In 1998, the US Congress passed the Digital Millennium Copyright Act to give corporations more legal tools to protect their intellectual property interests in the age of the Internet (see “A comment and clarification on the Napster controversy”).

For years, the media have uncritically promoted the term “piracy” to force public opinion to accept the corporate position that sharing creative content across the Internet is theft, pure and simple. This is the thrust of the “educational material” that will be imposed on users suspected of illegal file-sharing.

A socialist view of copyright law is based on an historical understanding of its development. The first copyright law, called the “Statute of Ann,” was enacted in 1709. It was a reflection of the ascent of the Enlightenment and was designed to encourage the widespread propagation of knowledge.

The most important aspect of copyright law was the establishment of the public domain to free existing intellectual works from the grip of profiteers who monopolized and restricted the publication of great works to benefit their own narrow interests. Of course, this was an expression of the progressive character of the rise of the bourgeoisie and the associated explosion in the development of industrial technology, including printing, to begin to make great ideas accessible to a mass audience.

This is a far cry from the activities of the modern-day capitalists.



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