

ACTA Arguments

25.01.12

- Let's be clear: **ACTA is not a threat to internet freedom.**
 - ACTA is **not** about checking or monitoring private ipods, laptops, emails and phone calls. It will not censor websites. It's **not** about your shared files on Facebook. This is not about how *individual* citizens use the internet.
 - **ACTA is not the EU's SOPA or PIPA** (US' "*Stop Online Piracy Act*" and "*Protect Intellectual Property Act*"). ACTA does **not** foresee any rules to cut the access to citizens to the internet or to introduce censorship of websites, unlike the proposals discussed in recent days in the US (SOPA/PIPA). There is no link between ACTA and SOPA/PIPA.
- **What we talk about here are large-scale and organised infringements of intellectual property.** This is what ACTA is about.
 - Let me give you examples that we are actually looking at with ACTA: we are talking about an **author who is confronted with pirated copies of his book outside the EU**, or a fashion company that finds counterfeits of the clothes it sells: ACTA will harmonise the rules that lay out how they can react in such a case. Everybody who holds an intellectual property right, from the wine producer to the owner of entertainment software, will be able to count on efficient and broadly common rules regarding the way they can complain with the authorities and how his complaint is dealt with. So ACTA does something about the enforcement of Intellectual Property Rights.
 - **ACTA does not even change EU law.** It is about enforcing the existing rules and give the holders of intellectual property rights the tools to pursue their right should they be confronted with large-scale counterfeits.
- **ACTA is needed because protecting intellectual property is protecting EU jobs.**
 - The EU's national customs authorities have registered that counterfeit goods entering the EU have **tripled** between 2005 and 2010. Studies show that **losses caused by counterfeiting and piracy could reduce EU GDP by EUR 8 billion annually.** In other words: infringements against intellectual property destroy jobs, harm competitiveness and

create barriers to innovation. Counterfeiting and piracy undermine innovation, which is key to economic growth.

- Counterfeiting also generates large profits for organised crime groups and distorts the market by encouraging illicit practices within businesses.

- **ACTA is also needed to protect our safety and health.** For example, fake medicines account for almost 10% of world trade in medicines. Most of these fake drugs are headed for the world's poorest countries.

- We need to do something about this. Let us be clear: **intellectual property is the raw material of Europe.** We have to protect innovations, creativity and brands to preserve our competitiveness world-wide. It's about our jobs.

Q&A

What will you do if hackers attack the European Commission's websites?

- We do not comment on security issues as regards our websites.

Will ACTA limit my rights on the web?

- **ACTA will not change the existing EU legislation.** ACTA does not create new intellectual property rights, but concerns procedures and measures to **enforce existing rights** and to **act against large scale infringements, often pursued by criminal organisations.**

- It will not lead to limitations of fundamental rights (e.g. control of laptops of air passengers at borders, monitoring of internet traffic). The respect of fundamental rights such as privacy, freedom of expression and data protection is expressly mentioned as a basic principle of the agreement.

- When it comes to the internet, ACTA sets a new international standard, based on the EU system. The World Wide Web is the most global and open market for music, films, books and software, but also for millions of counterfeit goods. So far there is virtually no international standard defined to address the large-scale infringements for such goods, because the TRIPS agreement was concluded at a time (1994) when the internet was still in its infancy. ACTA, for the first time, creates a minimal level of harmonisation and transparency for the rules applicable to such infringements.

What does ACTA actually do?

- ACTA is essential for **all those EU exporters who hold intellectual property rights** and operate globally. Currently, many of them suffer systematic and widespread infringements of their copyrights, trademarks, patents, designs and geographical indications, initiated by organised criminal

organisations.

- ACTA will improve the cooperation between national authorities and thus the level and effectiveness in dealing with such infringements. Take for instance an author who is confronted with a pirated copy of his book outside the EU, or a fashion company that finds counterfeits of the clothes it sells: ACTA will harmonise the rules that lay out how they can react in such a case. Everybody who holds an IP right, from the Chianti producer to the owner of entertainment software, will benefit from improved access to justice, customs, and police to enforce their rights versus counterfeiters or infringers.
- Right-holders will be able to count on efficient and broadly common rules regarding the way their complaint is dealt with. This does not only refer to the action they can expect from authorities but it also includes a series of practical questions: What urgent protection may a rights-holder obtain, what kind of evidence will be collected and preserved, what will happen to the fake goods once seized?

What does ACTA mean for the EU?

- Let's be clear: **Intellectual property is Europe's raw material**. ACTA will be important to safeguard the **EU's competitiveness – and jobs – on the world market**. Indeed, if we want to remain a competitive economy, we must rely on innovation, creativity and brand exclusivity. These are some of our main comparative advantages on the world market. So we need the tools to ensure that they are adequately protected in our main export markets. ACTA is one of them.

ACTA is a secretive agreement. Stakeholders weren't consulted during the negotiations.

- The text of ACTA is publicly available to all since April 2010, and has already been made public during the negotiations (Click here to access the text: http://trade.ec.europa.eu/doclib/docs/2011/may/tradoc_147937.pdf)
- The negotiations for ACTA were not different from negotiations on any other international agreement. It is a fact that such agreements are not negotiated in public, but with the Lisbon Agreement and the revised Framework Agreement there are clear rules on how the European Parliament should be informed of such trade negotiations. And these have been scrupulously followed.
- Commissioner De Gucht has participated in three plenary debates, replied to several dozens of written and oral questions, as well to two Resolutions and one Declaration of the European Parliament, whilst Commission services have provided several dedicated briefings to MEPs during the negotiations.
- Likewise, the public was informed, since the launch of the negotiations about the objectives and general thrust of the negotiations. We offered several technical briefings to journalists present in Brussels, which were open to Polish journalists accredited at the European Commission.
- Furthermore, the European Commission organised four stakeholder conferences on ACTA (which took place on 23 June 2008, 21 April 2009, 22

March 2010 and 25 January 2011, in Brussels) **which were open to all - citizens, industry, NGOs and press.**

- The Commission also released summary reports after every negotiation round and the negotiating text since April 2010: <http://ec.europa.eu/trade/creating-opportunities/trade-topics/intellectual-property/anti-counterfeiting/>

Who are the other parties to the Agreement?

- Australia, Canada, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the USA
- The EU's objective with ACTA partners is to have a new plurilateral treaty improving global standards for the enforcement of IPR, to more effectively combat trade in counterfeit and pirated goods.

Who will sign ACTA?

- All parties but the EU, Switzerland and Mexico have already signed ACTA in December 2011.
- **The EU's signature of ACTA is scheduled to take place in Tokyo on 26 January 2012.** ACTA contains criminal enforcement provisions, an area that is considered of "shared" competence between the EU and its Member States. This is why it needs to be signed and ratified by the EU **and** by all the 27 Member States, including Poland.
- The Polish government has confirmed on Monday 23rd January that the Polish Ambassador will be present on Thursday in Tokyo to sign ACTA on behalf of Poland.
- The EU will be represented by the EU Ambassador and the Danish Ambassador, representing the EU Presidency. As soon as they will have completed any necessary domestic procedures needed prior to signing, EU Member States, represented by their national Ambassadors in Tokyo, will also sign ACTA. Most of them are expected to sign the agreement on Thursday (please check with national authorities).

What happens after the signature?

- After the signature of ACTA, the European Parliament will be formally notified to initiate its consent procedure. This should include discussions in the different committees (Committee for International Trade, Committee for Civil Liberties, Justice and Home Affairs and Committee for Legal Affairs), and possibly a public hearing. The vote of "consent" is likely to take place towards May or June.
- Once the European Parliament has given its consent and the national ratification processes in the Member States are completed, the Council of Ministers then has to adopt a final decision to conclude the agreement. This is then notified to the other Parties (signatories of ACTA: Australia, Canada, Japan, Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the USA) and the agreement will enter into force for the EU.

What happened so far?

- The negotiations were concluded at the end of November 2010 and the EU initialled the text on 25 November 2010. The agreement is now in the process of being adopted by the EU. It was approved by the Commission on 24 June

and sent to Council for authorizing its signature and then to the European Parliament for consent.

- The Council adopted the decision for the EU to sign ACTA on 16 December 2011. Constitutionally, it is up to the Council (representing the 27 Member States), to approve the signature of international treaties by the EU and to appoint a representative to sign them on behalf of the EU.