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## Online Privacy Bills Rely on Ignorance, Fiction -- Not Facts, Understanding and Reality

Opposition to legislation that would regulate the Internet, unsettle investors, and add millions in legal costs for tech and telecom companies is growing. The American Taxpayers Union recently [expressed skepticism](#) with bills aimed at reducing online copyright infringement (PROTECT IP or PIPA in the Senate and Stopping Online Piracy Act in the House). [Conservative think tanks](#) like the Heritage Foundation, CATO Institute and CEI have also come out against these piracy enforcement measures that go too far.

But the momentum to get quick votes on this sweeping legislation is strong as pressure mounts from entertainment lawyers, trial lawyers and a few unions to push these bills to a vote in the Senate and House before the broader public and lawmakers understand what's at stake. Votes in a few weeks threaten to force the decision before the real costs of SOPA and PIPA for our government, our IT sector, and future innovation, are appreciated.

If these laws were in place, the climate for legitimate start-ups would be chilled. Former startups like Facebook and Youtube could have easily been sued out of existence through the private rights of action granted in the fine print. Existing companies will have to develop monitoring and censorship regimes to avoid liability.

A recent Harvard [Business](#) school study, [commissioned](#) by my tech trade association reconfirmed that venture capitalist investment in cloud computing flourishes when there is legal certainty about the scope of liability faced by tech companies for what users do on their sites. However, SOPA and PIPA add legal uncertainty as they undermine the current liability protections tech companies now receive in exchange for quickly responding to requests to take down infringing content uploaded by their users.

In these austere times, it's surprising Congress would be willing to transfer most of the burden of copyright enforcement to taxpayers and our fastest growing industries.

It is also hard to believe that as Congress looks for ways to trim the federal budget, they would instead approve a new program that would cost the federal government at least \$453 million up to 2013 according to a [cost estimate](#) of only some of the costs by the Congressional Budget Office as the entertainment industry shifts its copyright enforcement costs to the government and other private companies.

What hasn't been calculated yet is the cost of [countless legal hours](#) and distracted management as Congress bestows private rights of action that will require the tech industry to respond to massive nuisance lawsuits from freelance and entertainment industry lawyers. This legislation will certainly be a boon for [trial lawyers](#), who are giving money and lobbying House and Senate Democrats to support the measure.

But let's just stay with the \$453 million known cost to the government for a moment and weigh the costs versus the benefits. In other words, what are the real costs of online infringement. The MPAA and their political network of officials continue to claim costs of \$20 billion or more – even after the [Government Accountability Office debunked](#) those numbers.

This [Washington Post](#) piece puts the [annual cost of infringement](#) in the millions – or the equivalent of what “Alvin and the Chipmunks” grossed.

Another key cost-benefit question to calculate is whether PIPA or SOPA would actually stop online piracy and recover some of the alleged \$400 million loss. Those who understand how the Internet works and what SOPA and PIPA would actually do, say no and will now be able to tell Congress during a House Government Oversight Committee [hearing](#) January 18.

Numerous [experts](#) have tried to warn Congress that SOPA and PIPA [wouldn't effectively address](#) the real problem of piracy, but instead would cause substantial collateral economic damage to legitimate companies driving the digital economy. Basically the cure is [worse than the disease](#) as this Reuters' columnist explains . We are, in effect, burning down the house to roast the pig.

In introducing [alternative bipartisan legislation](#), Reps. Darrell Issa, R-Calif. and Zoe Lofgren, D-Calif., pointed out that online innovation and commerce were responsible for [15 percent of GDP growth from 2004-2009](#).

And a McKinsey Global Institute [study](#) found the Internet accounted for 21 percent of the GDP growth over the past five years for mature economies.

Some have argued that PIPA is less Draconian than SOPA, but that's like debating whether Jeffrey Dahmer or the [Boston Strangler](#) is worse – to borrow [a famous analogy](#) from former MPAA head Jack Valenti. He told Congress in 1982 the VCR was as dangerous to the American public as the Boston strangler was to a woman home alone. Yet home video is now Hollywood's most profitable business. The two bills are similar in key ways and both will extinguish innocent parties.

With such unreliable claims of copyright harm, serious doubts about effectiveness, and the risk to the dynamism of the Internet economy, we ask lawmakers to weigh these realities and study the technology itself and how the Internet operates– seeking advice from cybersecurity experts and those who understand Internet architecture — before voting on these flawed bills.

We should all be able to agree that fighting online infringement is a worthwhile goal, but pitting the request of one industry over the legitimate needs of others, all while eroding the Internet, a universal underpinning of our economy, is unwise.

There are more effective solutions that do not require this false choice between what policies help the new generation of companies and what helps boost profits on the secondary market of movie and music sales to online consumers.

Those who understand the digital economy like Reps. Darrell Issa and Zoe Lofgren have proposed the alternative OPEN Act and even attempted to fix SOPA and PIPA. This [“follow-the-money” approach](#) would actually reduce online piracy without making the Internet collateral damage as the undercooked bills SOPA and PIPA do. We challenge Congress to listen to knowledgeable experts and the millions of constituents who rely on the Internet.

Is this Congress really sure this is the time, the way, and the reason they want to initiate regulating the Internet?