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## ACTA and the EU - the story so far

European Commissioner refers Anti-Counterfeiting Trade Agreement to the European Court of Justice to consider its legality.

By *Alan McKenna*  
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### Tackling illegal activity - or censorship?

Critics of ACTA argue that it will lead to private parties, in particular Internet Service Providers (ISPs) under the threat of criminal sanctions for aiding and abetting those who infringe intellectual property rights, to have to act extra-judicially as online censors. It is claimed ISPs will in effect be required to use systems that will automatically block and delete content, and filter communications, and the consequences of such actions will inevitably restrict users' online freedoms. The European Commission, in trying to dispel fears over ACTA, has argued that there has been a misconception generated



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over its scope and how it will be used. They claim that it will not oblige ISPs to monitor or filter the content of users, and that ACTA is only concerned with tackling large scale organised illegal activity. As such, the EC argues it will not impact on an individual's everyday internet use, and that such users 'can continue to share non-pirated material and information on the web.'

The United States, Australia, Canada, Japan, Morocco, New Zealand, Singapore and South Korea signed the Treaty at a ceremony in Tokyo on the 1<sup>st</sup> October last year. At a further ceremony in Tokyo on the 26<sup>th</sup> January this year, the European Union and 22 of its Member States signed the Treaty. Those Member States not signing being Cyprus, Estonia, Germany, the Netherlands, and Slovakia. However, the wide-scale street protests across Europe that followed the signings have led a number of Member States to reappraise their positions. The Polish Prime Minister, Donald Tusk chose to freeze Poland's ratification in order to seek further discussions on the Treaty, and Romania, Lithuania, the Czech Republic, Slovenia and Bulgaria have all now backed away from immediate ratification.

### 'A free and open internet'

On the 28<sup>th</sup> February a petition containing close to 2.5 million names calling for a free and open internet, and for the Treaty not to be ratified, was delivered to the European Parliament. In response, Erminia Mazzoni, the Chair of the European Parliament Committee on Petitions, stated, "The major issue is the conflict between freedom of expression and copyright. We fear that this agreement could lead to damaging freedom of expression. The agreement seems to be unbalanced as regard the copyright. Therefore we need to strike the best balance between the legitimate concerns." The petition came in advance of the meeting that begun on the 29<sup>th</sup> February of the European Parliament Committee for International Trade to discuss ACTA. The role of the Committee is significant, in that it will make a formal recommendation to the full Parliament as to whether or not to approve ACTA. If the European Parliament chooses not to approve the Treaty then as far as the European Union is concerned it cannot be ratified.

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