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Anti-Counterfeiting Trade Agreement

I am writing to express my concern over Canada's involvement in the new ACTA proposal.

My fear is specifically related to:

Civil Enforcement

- "Damages adequate to compensate, including measures to overcome the problem of rights holders not being able to get sufficient compensation due to difficulty in assessing the full extent of damage;"

Which sounds to me like "we want more money even though we can't prove we deserve more". If a valid IP holder has a claim against an individual or corporation for violating their IP rights, that is fair. Claiming they deserve more compensation with out the ability to provide a solid basis for these claims seems criminal. With the recent rash of lawsuits by the RIAA against individuals in the United States, some with egregious settlements, makes this all the more dangerous. There is no safe-guard for the wrongly accused to help protect themselves as is the case in many of the RIAA cases which are lost or withdrawn, leaving only the vindicated defendant to try and pick up the pieces once they are spent financially and emotionally. This is a current problem, but instead the ACTA proposal recommends.

- "Provisions for judicial authorities to order the infringer to pay the rights holder, in appropriate cases, reasonable legal fees and costs."

Why not the other way? This proposal is promoting the needs of business over citizens and I hope that when it is reviewed our honourable Members of Parliament will think of their constituents even though we may not have the same lobbying powers.

Now lets discuss privacy and the ACTA proposal's seemingly unlimited powers to force internet service providers to quickly disclose customer information.

- "Procedures enabling rights holders who have given effective notification of a claimed infringement to expeditiously obtain information identifying the alleged infringer;"

If this is anything like the broad use of the Patriot Act in the United States, I would hope our government would act with more restraint.

Courts can order customer information from ISPs, but this proposal does not want to have to deal with burden of proof a judge might require. Is the proposal saying that our police and RCMP services are unable of handling the investigation of these "crimes". This seems to state that rights holders (or their attorneys) would be able to procure this information with out the oversight of a judge. What will the burden of proof be to get this information, and who will ensure the public's privacy as they attempt to find who is compromising their copyright.

I hope there will be an intelligent discussion of these points and concerns. This affects us all as Canadians in what we currently can call a "free society".

thank you,
Jared Whiklo