

Running Head: R.I.P. SOPA

R.I.P. SOPA:

A Critical Analysis of the Discourse Surrounding the 2011 Failed Legislation

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### **Abstract**

In 2011, the House of Representatives introduced the Stop Online Piracy Act (SOPA), a controversial legislative attempt responding to persistent digital technology innovations and the popularity of Internet piracy. The failure of this act raises questions about the extent to which discussions of copyright legislation and proposed solutions to digital piracy reflect the relationship between media and technology industries. This study addresses such questions through a critical discourse analysis of SOPA's media coverage. It finds that media industries, as advocates for the bill, were solely concerned with implementing a solution to intellectual property theft, while technology industries, which were the legislation's most prominent opponents, feared the bill would be detrimental to the Internet's structure and participatory nature. This study argues that proposals of copyright infringement solutions and the deliberation processes preceding them require the involvement and consideration of both media and technology industries – an irrefutable link that has been largely overlooked in existing academic studies on digital piracy legislation. Although this study focuses on one piece of legislation, it offers a useful model for thinking about debates in communication surrounding copyright law beyond SOPA.

## **Introduction**

The late twentieth and early twenty-first centuries experienced a significant rise in controversy surrounding digital piracy issues. Entertainment executives feared that the rapidly evolving affordances of new digital technologies were facilitating illegal downloads of copyrighted content and, as a result, drastically reducing the industries' revenues and profits. The Internet's accessibility and growth as well as the digitization of media decreased consumers' appetites for physical products, which are considerably more difficult to pirate than their online successors, such as compressed .mp3, .mp4, .mov, and .avi files. This technological shift, while beneficial in many ways for both media industries and its consumers, generated sizeable debate over ethical and economic consequences. For instance, the digitization of content enabled conservation of quality during reproduction and more efficient storage than analog media, simplifying the process of illegally replicating and distributing copyrighted material (Havens & Lotz, 2012). The industries' concerns over this catalyst for digital piracy manifested in various legal repercussions, such as the enactment of new sanctions on technological developments, copyright laws, and numerous lawsuits against pirates. In 2011, the Senate introduced the PROTECT IP Act (PIPA), which was then followed by a similar House version of the bill called the Stop Online Piracy Act (SOPA). Often collectively referred to as SOPA, these controversial bills ignited a debate between the media and technology industries, which ultimately led to the legislation being tabled.

Scholars have predominantly studied digital piracy from the perspective of media industries. Considering the positive or negative implications of illegally downloading media content, studies have most commonly analyzed the behavior's financial consequences on entertainment businesses. Though copyright laws have been researched in terms of their

effectiveness in deterring digital piracy, scholars have only studied SOPA in regards to its technological repercussions. Evaluating the online protests that occurred in response to the proposed legislation, research on SOPA focuses almost exclusively on participatory websites (Yoder, 2012; Sell, 2013; Bessant, 2014; Konieczny, 2014; Loudon, 2014; Powell 2015). Noting how the Internet has given its users the opportunity to make connections and build communities without regard for geographic proximity, these studies show how online demonstrations prompted by the proposed legislation set a precedent for future protests and altered the structure of advocacy. With scholars largely treating the media and technology industries as distinct, this study highlights the need to consider both perspectives in tandem. The use of the Internet and technological devices to access entertainment content, both legally and illegally, has created an indisputable connection between the industries, yet this context has not been explicitly explored academically in terms of copyright law. This case addresses that void by analyzing both the media and technology industries' arguments for and against SOPA, respectively. In doing so, it will assess the threats digital piracy poses to these industries and propose a more thorough approach to intellectual property protection.

This study examines media discourses surrounding the SOPA controversy in an attempt to reveal the significance of both the media and technology industries' roles in the digital piracy debate. Just as scholars have studied the analytical value of failed media production and what that can reveal about the operation of media industries (Punathambekar, 2009; Mayer, 2014), this case is similarly premised on the notion that failed legislation can demonstrate that the solution to digital piracy not only needs to effectively eliminate the illegal behavior, but must also do so in a way that accounts for all of the implicated parties. The failure of SOPA raises questions about the extent to which discussions of copyright legislation and proposed solutions to digital

piracy reflect the relationship between media and technology industries. This study addresses such questions through a critical discourse analysis of SOPA's media coverage. It argues that because of the irrefutable link between the media and technology industries any efficient discussion of and solution to digital piracy, an act involving the use of an industry's products (e.g., technology) to illegally access that of another's (e.g., media), must work for both. Rather than attempting to implement any method that will effectively combat piracy, entertainment industries should be more mindful of the potential collateral damage their strategies pose. Future proposals of copyright infringement solutions and the deliberation processes preceding them require the involvement and consideration of both media and technology industries. Although this study focuses on one piece of legislation, it offers a useful model for thinking about debates in communication surrounding copyright law beyond SOPA.

### **Historical Context: Copyright Protection Leading up to SOPA**

In order to understand the significance of SOPA to developments in the digital piracy debate, it is important to first recognize the prior history of intellectual property protection. Alterations in law to keep pace with the advancement of technology initially occurred with The Copyright Act of 1976, which still poses as the basis of copyright law in the United States. It laid out the rights of copyright holders, extended the term of copyright beyond the life of the work's creator to that plus an additional 50 years, and introduced the first explicit mention of "fair use," an elusive doctrine that protects certain uses of copyrighted material without the owner's permission or approval. Section 107 of the law states that reproducing or copying a copyrighted work "for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research" should not be considered infringement, and

are therefore exempt from prosecution (The Copyright Act of 1976, 1992). The purposely vague language of fair use considerations has been extended to include more specific uses of copyrighted work through court cases and amendments, setting precedents for future conflict and technological innovation. Through various legal disputes over time, fair use has been granted to both audio copies of legally purchased content for “home use” and home video recording, protecting these uses from copyright infringement (Copying music and movies, 2003). More recently, critics of new copyright laws and defendants of digital piracy lawsuits argue that the regulations and prosecution, respectively, do not account for fair use, exercising the stipulation presented by the 1976 act to defend certain instances of piracy (Stim, 2017).

The life of copyright was prolonged again in 1998 with the Copyright Term Extension Act (CTEA), commonly known as the Mickey Mouse Protection Act in reference to the Walt Disney Company as the legislation’s most active proponents. CTEA extended the life of a copyrighted work published in 1978 or later to the life of the work’s creator plus 70 years. Anything published on or before January 1, 1978, however, was still only covered for the term-length prescribed by the Copyright Act of 1976 (The Copyright Act of 1976, 1992). The Digital Millennium Copyright Act (DMCA) of 1998 further amended copyright law in response to the expanding capabilities of the Internet. It revised and created sections of Title 17 of the United States Code, which laid the framework of United States Copyright Law, to officially criminalize the circumvention of government-implemented technological limitations intended to prevent online dissemination of copyrighted materials. This government practice, known as digital rights management (DRM), employs methods of restricting technological affordances from allowing users to pirate media content from the Internet (Schwabach, 2006). The details and provisions of CTEA, DMCA, and prior copyright legislation are commonly used as leverage for both the



prosecutors and defendants in court cases surrounding intellectual property protection (9-71.000 – Copyright Law, n.d.). The language of these laws, though intentional to expand with the Internet and its affordances, was too broad to maintain reliable coverage to the satisfaction of media industry executives in the face of digital piracy's growing popularity.

Copyright legislation's ambiguity became an increasingly notable problem for media industries around the new millennium, when Internet access was rapidly multiplying. The industries' initial, and possibly most recognized, response to the widespread piracy of digital media, was the case of *A&M Records, Inc. v. Napster, Inc.* (2001). A platform allowing its users to upload and download digital audio files using its extensive online library, Napster was a peer-to-peer file sharing service that endorsed unlimited duplication of copyrighted material. This service permitted free access to products that otherwise cost money, posing a major economic threat to entertainment businesses. The Recording Industry Association of America (RIAA), the trade organization representing A&M Records, filed a federal lawsuit against Napster in 1999 for indirect copyright infringement, and in 2001, the Ninth Circuit Court of Appeals ultimately ordered the site to close (Langenderfer & Cook, 2001). The issue of online piracy, however, did not dissolve with Napster. Smaller file exchange services existed at the height of Napster's popularity, and software creators have since developed others in numerous attempts to bypass the elusive copyright laws. As technology and the Internet continued to advance, peer-to-peer file sharing networks made use of new digital affordances and began enabling users to share media files containing not just music, but movies, games, books, documents, and even computer software as well. Though the Napster case resulted in severe consequences for the platform and a victory for entertainment industries, it did not create new legislation. Instead, the existing regulations, due to their deliberately loose wording, gave way to an open market for new peer-to-

peer sharing services and the ensuing lawsuits filed against such host sites and the individuals who used them.

In an attempt to respond to the persistently innovative digital technology developments and the subsequent popularity of Internet piracy, the Senate proposed the PROTECT IP Act (Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act, or PIPA) on May 12, 2011. Just a few months later, on October 26, 2011, the House of Representatives introduced the Stop Online Piracy Act (SOPA), a similar version of the bill, seeking severe punishments for websites facilitating pirating practices (Schatz, 2012). The legislation intended to expand the government's power in combatting piracy, giving it the authority to not only impose regulations on web firms that enable access to illegal content, but also interfere with third parties, such as payment services, that conduct business with such sites. These bills, which ultimately failed, sparked significant reactions from both the media and technology industries, as advocates and opponents, respectively. Entertainment executives, who argued that the legislation was necessary for the survival of media industries, faced extreme opposition from websites and legislators that claimed the proposition violated free speech rights and previous copyright laws.

The growth of the Internet expanded its participatory nature, making user-generated content more common, and therefore more difficult for sites and regulators to monitor. SOPA would have made it the responsibility of web firms to scan all of their users' content for unauthorized use of intellectual property. Though the 2011 proposed bills attempted to make it explicitly legal to punish an entire platform for illegally hosting copyrighted content, rather than only incriminating the individual users who posted such material, rulings had previously been ambiguous on this matter. For instance, technology enabling consumers to record physical copies

of shows and movies that aired on television was deemed legal in *Sony Corp. of America v. Universal City Studios, Inc.* (1984). In 2001, however, Napster offered to modify its software to block 99.4% of its infringing material, yet the court upheld its decision to consider it an illegal service (Gray, 2012). In *Sony v. Universal* (1984), the technology was legalized despite having the capability of being used for illegal purposes, whereas in Napster's case, the file sharing service was banned for enabling any amount of piracy. SOPA re-raised the question over whether a specific technology or website could be prohibited for facilitating the illegal circulation of intellectual property when such use only constitutes a small percentage of its overall purpose. Advocates maintained that sites be held accountable for unlawfully hosting any copyrighted content, while opponents fought this stipulation as one of the bill's largest flaws. The legislation revealed ethical and economic concerns from both media and technology companies, prompting such a significant controversy that it resulted in the bill being tabled, and thus the first legislative defeat for copyright holders in 30 years (Sell, 2013).

## **Literature Review**

Scholars have studied the development of piracy and its consequences in many ways. While most studies frame free peer-to-peer file sharing services as having negative impacts on the economy, specifically on entertainment industries, scholars are not unanimous on this perception. Some research on copyright infringement has suggested that the illegal practice can potentially be beneficial for media industries. This literature often accuses media executives of misconstruing data in an attempt to present the effects of digital piracy as worse for business practices than they are. In their Digital Economy Act (DEA) policy brief, Cammaerts, Mansell, and Meng (2013) argue that media industries' efforts to combat piracy are misguided since they

are mainly based on revenue streams of CDs and vinyl records, which have naturally dropped following the digitization of media content. The work shows that overall profits have stagnated, finding no evidence for the “drastic decline in revenues warned of by the lobby associations of record labels” (p. 7). Aguiar and Martens (2016) reaffirm these results in their analysis of clickstream data, noting that legal purchases of music have remained relatively stable in the face of digital piracy. These studies concluded that illegal downloads of creative content have had minimal, if any, negative financial impact on media industries.

Further, research suggests that digital piracy has made beneficial contributions to copyright holders and other industries involved in media content sales. Drawing on academic literature about the illegal act, Herjanto, Gaur, Saransomrurtai, and Quik (2014) determine that piracy can be an effective publicity vehicle, allowing consumers to find content they would not have otherwise encountered and often leading them to legally purchase it. Studies also offer evidence that file sharing services can promote unknown artists, giving them the opportunity to be discovered (Piolatto & Schuett, 2012; Lee, 2016), while others cite the benefits copyright infringement has in reinforcing retail popularity for artists signed to major labels (e.g., Hammond, 2014). Herjanto et al. (2014) also found that piracy has positive effects on digital businesses due to increased product diffusion. For instance, the software that pirates use to illegally download content creates “high product awareness and [influences] potential customers” to purchase it (p. 316). Similarly, in his survey to determine the effect intellectual property theft has on iPod profits, Leung (2015) argues that digital piracy increases sales of music complements. Researchers have found that online copyright infringement is not only inconsequential in regards to media industries’ revenue, but it can also have a positive impact on music artists and the sales of technology products.

The vast majority of digital piracy studies, however, analyze the negative industrial and cultural implications of the illegal behavior. Similar to Sinha and Mandel's (2008) theory that negative incentives, positive incentives, and consumer characteristics can often predict an individual's likelihood to pirate music, studies on the detrimental effects of digital piracy can typically be grouped into one or more of these same three classifications. First, research on legislation and lawsuits to punish pirates tend to frame such responses to copyright infringement as negative incentives. Second, studies focusing on industry shifts toward new platforms that make content more accessible to consumers can be categorized as positive incentives. Finally, literature that identifies how social norms have made piracy less taboo often attempt to create a profile of those most likely to illegally download media content based on consumers', or pirates', common traits and characteristics.

Scholars focusing on the impact of digital piracy legislation generally discuss the efficiency of using negative incentives, such as lawsuits and other threats of punishment, to deter people from stealing intellectual property. Upshaw and Babin (2010), in their survey of young adults' music listening and downloading habits, found that while lawsuits are the largest deterrent to copyright infringement when compared to other negative incentives, their impact is relatively negligible on the amount of digital piracy as a whole. The study found that lawsuits not only "have little effect on consumer behavior," but they are also "financially detrimental to the industry and potentially not worthwhile" (p. 24). Citing the lawsuits filed by the RIAA against culpable individuals, universities, and companies, Upshaw and Babin's work supports the idea that although these court cases slightly reduced digital piracy, industries lost more money pursuing them than they gained in resulting music sales. Additional research found that lawsuits and other policies aiming to severely punish a small percentage of digital pirates are ineffective

in discouraging people from illegally accessing media content (Lyonski & Durvasula, 2008; Zhang, Smith, & McDowell, 2009; O'Shea, 2013, Geng & Lee, 2013). In their survey of college students, Zhang et al. (2009) found that respondents were less likely to pirate music only when they perceived punishment to be certain, and the severity of a potential consequence had no significant correlation to an individual's likelihood to illegally download copyrighted material. These studies defend the notion that the high costs and relatively small number of lawsuits make them unsuccessful in reducing the rate of digital piracy.

Literature on copyright legislation has also reflected concerns about the constitutionality of such regulation (Chemerinsky, 2002; Shue, 2005; Belleville, 2012; Thomas, 2013). In a case study of the Copyright Term Extension Act (CTEA), Chemerinsky (2002) argues that prolonging the life of copyright violates the American right to freedom of expression. Citing the fact that the protection of intellectual property "exists to encourage the creation and distribution of more speech," he contends that extending copyright terms "does not serve that purpose because it applies only to speech that already exists" (p. 97). Similarly, Belleville (2012) conducts an analysis of SOPA to explain the primary issues raised by the bill's opponents. Identifying the ramifications of expanding the government's role in combating piracy, the study pinpointed legal concerns over due process, First Amendment rights, censorship, and the potential to impede Internet innovation and the development of technology companies. While opponents of the proposed law often agree that piracy is an issue, they believe that these harsh legislative reactions fail to solve the problem and infringe on human rights in the process. Digital piracy studies that focus on legislation, or negative incentives, demonstrate that not only have such laws been fairly ineffective in deterring the illegal practice, they have also produced a significant amount of resistance and controversy that may not justify the marginal benefit.

Other research suggests that providing consumers with a more favorable alternative to illegally downloading content is more effective in reducing piracy than negative implications. This proposed shift in entertainment industries' practices would offer consumers a positive incentive, such as a legal new platform to access content, that would have the low cost and easy accessibility that make piracy more attractive than the current means of legal media consumption. Studies have found that this recommendation can be effective in reducing digital piracy (Hill, 2007; Lyonski & Durvasula. 2008; Hofmeister, 2010; Briggs, Eiermann, McNamara, & Hodson, 2014; Akulavičius & Bartkus, 2015). In their field study at a university, Lyonski and Durvasula (2008) came to the conclusion that "piracy can be likened to a two-pronged approach: the carrot vs the stick." With legislation as the "stick" approach and positive incentives as the "carrot" approach, the study found that "a more attractive business model is needed" to change pirates' habits (p. 175). In providing a more desirable alternative to digital piracy and current law-abiding platforms, media industries could give consumers a legal, yet appealing way to consume content.

A successful shift in industries' practices would have to be toward a medium that allows consumers to access content with the benefits that make digital piracy alluring. Preferring the convenience, economic benefits, and unlimited library that digital piracy affords, scholars have found that consumers are likely to gravitate toward new industry models that offer such advantages. In his effort to identify the causes, consequences, and strategic responses to copyright infringement, Hill (2007) affirms the importance of copyright holders to "embrace the technology used by pirates (such as peer-to-peer networks)" by offering subscription services (p. 20). In a more recent study, Akulavičius and Bartkus (2015) praised Spotify, one of the music streaming services that pursued this suggestion, for offering a more favorable alternative to

piracy as well as other legal platforms. Not only preserving the quality of content that illegal downloading does not guarantee, streaming services also offer a cheaper option than a la carte services, such as iTunes and Amazon, which require its consumers to pay a fixed price per song or video. Further, the researchers claim that “Spotify has the biggest potential for . . . becoming the leading business model in the digital music market” (p. 17). Briggs et al. (2014) also argue for this continued entrepreneurship of intermediary platforms to reduce piracy. They found that streaming services, like Pandora and Spotify, assisted in decreasing the amount of digital piracy as well as increasing the legal consumption of music. Though such services have not successfully eliminated digital piracy, they have benefited both the consumers and industries while managing to subdue illegal methods of obtaining music. This shift in music industries’ practices, providing an alternative means of content consumption, has acted as a positive incentive to the reduction of digital piracy.

There are also many studies that aim to identify common traits and characteristics among pirates in order to devise a solution that would best target the most likely culprits. The widespread practice and popularity of digital piracy among entertainment consumers has made this illegal behavior a societal norm, reducing fear of negative incentives and contributing to the high frequency of copyright infringement. Most studies attempting to propose a distinguishing characteristic or quality that could predict whether a person is likely to pirate media content have focused on people’s ethical perceptions of piracy (D’Astous, Colbert, & Montpetit, 2005; Schultz, 2006; Cronan, & Al-Rafee, 2007; Lyonski & Durvasula, 2008; Coyle, Gould, Gupta & Gupta, 2009; Gray, 2012). There is also research, however, on whether gender (Tjiptono, Arli, & Viviea, 2015) or religious teaching (Casidy, Lwin, & Phau, 2017) influences a person’s attitude toward the practice, as well as the individual’s estimation of the risk involved (Vida, Koklič,



Kukar-Kinney, & Penz, 2012). In her examination of pre-existing literature, Gray (2012) demonstrates that the public generally does not find moral issue with digital piracy, and in fact, views it as a cultural norm. Moreover, Schultz (2006) discovered that social values not only influence an individual's behavior more than their learned knowledge of ethics, but actually shape their standards of ethical behavior as well. With an individual's actions directly affected by his or her understanding of social values combined with the notion of digital piracy as a cultural norm, it is no surprise that copyright infringement has become such a widespread issue. These studies attempt to construct the profile of likely offenders in order to target the individuals or groups that need to revise their view of intellectual property theft as ethically and socially permissible.

Scholars argue that distributing information that explains the detrimental repercussions of digital piracy on entertainment industries could resolve the misguided perception of the illegal behavior. Gray (2012) advocates for a response to this cultural acceptance of copyright infringement, encouraging entertainment industries to "further educate the public about the losses to artists . . . in order to brand it as a crime with a victim," and suggesting that "education, as opposed to punishment . . . may be the more effective preventative measure" (p. 291). Cronan and Al-Rafee (2007) also contend that society needs to learn about the effects of digital piracy on artists and media companies. Studies focusing on the demographics and characteristics of typical intellectual property thieves often found that to eliminate piracy, entertainment executives must inform the public of the illegal behavior's detrimental implications. Providing culprits with an understanding of their actions' consequences will help shift the culture away from copyright infringement as a social norm and subsequently alter the ethical component of digital piracy to make it less acceptable, and thus frequent.

Excluding the aforementioned literature by Belleville (2012), in which he performed a case study on the constitutionality of the legislation, SOPA research has typically taken a networked approach in examining how the online demonstrations started by participatory websites have established a new form of activism. Through analysis of literature on social movements and networks, Sell (2013) frames Wikipedia and Reddit's protests against SOPA as having "reduced barriers to collective action and the huge numbers of participants" (p. 81). The ability of users to collaborate with individuals outside of their geographic vicinity has enabled online sites and networks to change social movement practices by creating new advocacy techniques and exponentially increasing their power in numbers. Noting the anonymity that participatory websites afford, Powell (2015) predicts that the Internet's position as a medium for the organization of protests can have exceptional, yet potentially threatening consequences for the future of activism and the participants involved. In a case study on SOPA, Bessant (2014) investigates these new advocacy methods with the presence of e-businesses such as Google, Wikipedia, and Facebook. She argues that the online rallies caused the bill to fail because the individuals behind the Internet platforms had the necessary background knowledge to understand the practical and political implications of the proposed legislation that proponents such as policy makers and industry executives were lacking. This literature on SOPA focuses exclusively on online communities and how their use of the Internet's features to produce a massive organized reaction to the legislation set a precedent for future protests.

While there is extensive research on the positive and negative effects of copyright infringement on media industries and many studies on the technology industries' use of participatory websites to protest SOPA, there is a general lack of literature on digital piracy legislation that analyzes the perspectives of media and technology industries together. This study

attends to this gap by evaluating how news and trade press publications have framed the SOPA controversy as it is relevant to both sides. Consideration of the debate from this angle will reveal the direct importance of each industries' values and priorities in determining an effective solution to digital piracy.

## **Methods**

This study aims to capture a comprehensive view of the digital piracy issue and account for the perspectives of both the media and technology industries. To do this, I conducted a critical discourse analysis of the SOPA coverage in five news sources: *The New York Times*, *The Hill*, *Billboard*, *Daily Variety* and *The Hollywood Reporter*. *The New York Times* covers issues related to media industries from both the consumer and business sides. *The Hill* offers political commentary on current events, politics, policy, business, and international affairs. *Billboard*, *Daily Variety*, and *The Hollywood Reporter* are trade press sources that specifically cover entertainment news. Through a keyword search of "Stop Online Piracy Act," I gathered all coverage of the legislation from these publications during the 15 months following the SOPA proposal, spanning October 2011 (the month of SOPA's introduction) to January 2013 (when coverage of the issue significantly slowed). In each of the 100 articles (28 from *The New York Times*, 28 from *The Hill*, 7 from *Billboard*, 23 from *Daily Variety*, and 14 from *The Hollywood Reporter*) I looked specifically at how the publications presented the way media and technology industries as well as the legislators and lobbyists on either side discussed the proposed legislation.

I then coded and analyzed the data using grounded theory, inductively developing categories to organize the results (Corbin & Strauss, 2008). Grouping the information by

opposition or support for SOPA and then further by legislators, entertainment industries, technology industries, and consumers, I developed a total of five broad classifications to most clearly capture the varying perspectives on the legislation (Legislator Opposition, Technology Opposition, Legislator Support, Entertainment Support, and Consumer Opinion). Within each of these classifications I constructed a database to organize the information based on its general message (e.g., survival of the industries, economy/jobs, free speech, unreasonable burden) as well as the individual and/or group relaying it (e.g., Google, RIAA, Lamar Smith [R-TX], Chris Dodd). In evaluating the data, I noted the frequency of the arguments used for and against SOPA as well as the sentiments expressed by either side at different points of the legislation's timeline. This analysis revealed three distinct aspects of the debate: opposition to SOPA, the response advocates had to the opposition, and the discussion between both sides following the bill's failure.

### **“First Amendment Sunset Act” and Other Criticisms of SOPA**

“Student warning! Do your homework early. Wikipedia protesting bad law on Wednesday! #SOPA.” Using Twitter's 140-character limit, Jimmy Wales, Co-Founder of the free online encyclopedia, informed Internet users of his plan to shut down Wikipedia in protest of SOPA. Though further explanation for his opposition to the anti-piracy bill was not offered in the tweet, visitors of the site on January 18, 2012, were prohibited access and instead prompted to “Imagine a World Without Free Knowledge” as well as given a link to more information about the legislation “that could fatally damage the free and open Internet” (History Wikipedia English). Citing this blackout as well as the similar online protests subsequently executed by other web firms such as Google, Reddit, Mozilla, and Flickr, media coverage of the bill

demonstrates that technology industries as a whole held similar concerns about the legislation. The publications analyzed in this study attribute arguments of unintended consequences, unreasonable burden, stifled innovation, and free speech to SOPA's opponents, who worried that the rushed legislation would have had devastating impacts on the future of the Internet's landscape and development.

The technology firms and legislators that opposed the bill feared that, in its attempt to eliminate websites that illegally host copyrighted material, SOPA's language was so broad that it would have led to unintended interpretations and, thus detrimental consequences. According to *The Hill*, search engines such as Google and other law-abiding technology firms claimed that the ambiguity of the bill would have granted legislators the ability to interpret it in ways that "could [have led] to legitimate websites getting shut down" (Sasso, 2012a, para. 2). Participatory websites that unknowingly host user-generated content incorporating copyrighted material, which are protected by the safe harbor provision of Digital Millennium Copyright Act (DMCA), would have risked facing serious implications, such as lawsuits or government-imposed restrictions to user access. Though Google and Wikipedia were referenced the most, mentioned in about 25% of the articles reviewed, sites such as Yahoo, Facebook, and Reddit were also cited a number of times as lawful firms that felt "this bill [went] too far in giving the government and copyright holders the power to shut down websites just because they [believed] they [were] mainly about piracy" (Block, 2011, para. 8).

According to technology industries, SOPA would have given the government too much power in its ability to interpret the bill. In doing so, this would have likely led to the destruction of Internet business models by allowing "movie studios . . . , patents and copyright trolls and any holder of an intellectual property right to target lawful U.S. websites and technology companies"

(Nagesh, 2011a, para. 2). This potential stretch of the vague language, whether deliberate or accidental, could have resulted in law-abiding sites being forced to cease operation as collateral damage from the entertainment industries' rushed attempt to stop online copyright infringement. Legislators and activists that supported technology industries in their effort to crush the anti-piracy bill similarly argued for the preservation of the Web, hoping that "lawmakers [would] not impede the growth of the Internet . . . by passing laws that aim to . . . unnecessarily target content providers and search engines in an arbitrary and capricious manner" (Corbett, 2012, para. 4). Opponents frequently regarded the potential of SOPA's ambiguous language to be extrapolated onto legal sites that unintentionally host or facilitate access to pirated content as one of the legislation's biggest threats to web firms.

Technology industries further resisted the bill based on the financial and logistical burdens it would have imposed on websites. SOPA would have made it the responsibility, and thus liability of participatory platforms allowing user-generated content to ensure that their enabling features were not used for copyright infringement. Likening this regulation to "China's system of corporate 'self-discipline,'" the *New York Times* argued that such a demand "would [have created] daunting financial burdens and legal risks" (MacKinnon, 2011, para. 7). Activists supporting the technology industries' position similarly argued that websites facilitating access to infringing material or sites through the innovative and convenient feature of linking, would have had to "play policeman" (Weisman, 2012, para. 20) and eliminate such connections or else face "a court order [forcing] them to take action" (Johnson, 2011c, para. 6). According to Google executives, this attempt to "shackle the Internet with regulations" could have imposed detrimental consequences on web firms of all sizes and on the developing structure of the Internet as a whole (Nagesh, 2011b, para. 1). Larger companies, such as Google and YouTube,

that already employed strategies for locating and removing unauthorized usage of copyrighted material would have had to strengthen these procedures or confront the inevitable legal repercussions. Smaller organizations, such as start-ups, would have had to re-allocate their limited resources to prioritize monitoring content. This threatened obligation would have been impossible for larger companies and hindered the growth of smaller ones that would have had difficulty surviving the financial liability at all. Moreover, according to technology industry advocacy groups, the bill would have been “an alarming step backwards in Internet policy,” demanding that “third parties, including payment processors and online ad networks, cut ties with [rogue] sites” (Nagesh, 2011a, para. 1-2). Opponents of SOPA were confident that the legislation would have imposed undue stress in the form of supplementary regulations and liabilities on not only many web firms but on unrelated industries as well.

Technology industries and other opponents also felt that SOPA threatened to stifle innovation on the Internet. According to *The Hill*, Google Chairman Eric Schmidt warned that SOPA would have “[criminalized] linking and the fundamental structure of the Internet itself,” noting the potential detriment the bill would have had on websites’ business models (Sasso, 2012a, para. 2). Removing such a key feature would have impeded search engines and other major sites’ ability to connect users to unknown start-ups. Further, this limitation would have made it difficult for newer sites to reach popularity, would have discouraged corporate innovation on the Internet, and according to Mitt Romney during his quest for presidency, would have had a “depressing impact on one of the fastest growing industries” (Daunt, 2012, para. 4). The *New York Times* claimed that the burdens imposed would have made it “much harder for brilliant young entrepreneurs with limited resources to create small and innovative Internet companies that empower citizens and change the world” (MacKinnon, 2011, para. 7). Fearing

the conceivable risk to the structure of the Web, the opponents felt as though the bill favored the innovation of entertainment industries by protecting intellectual property, while inhibiting the growth and development of technology industries.

The new policing requirement would have also had a prohibitive impact on user-generated content. In an effort to prevent additional legal costs, many activists argued that participatory sites would have probably approached the removal of potentially incriminating posts with an overly cautious attitude by taking down anything that resembled copyrighted material and thus “[crippling] innovation in one of the most vibrant sectors of the American economy” (Weisman, 2012, para. 20). Video game industries, which often require its users to create new content through interactivity and encourage participants to post videos demonstrating their skills and accomplishments, were especially concerned about this aspect of the proposed bill, claiming it would have “shred the Internet” and “[led] to gross abuse” of technology companies (Gaudiosi, 2012, para. 11). Google and Facebook executives made similar claims, contending that the bill would have “hurt the average Internet user or [interfered] with their online activities” (Wortham, 2012, para. 19). Technology industries and their legislative activists rejected SOPA due to the harmful implications it would have had on the Internet’s development and general landscape as a participatory communication medium.

In discussing how the bill would have stifled innovation, activists argued that SOPA violated the American right to freedom of speech by forcing sites to censor its users. Referring to the legislation as the “First Amendment Sunset Act,” Clay Shirky, author and NYU professor, expressed his frustration with the bill to a *Daily Variety* reporter by claiming that advocates “can’t just shut [Internet users] up if [they] don’t like what they’re saying” (Johnson & Thielman, 2012, para. 8). SOPA’s opponents worried that by criminalizing Internet features



(e.g., user-generated content, linking), forcing web firms to monitor and remove pirated content, and prohibiting third parties from conducting business with sites that facilitate access to copyrighted material, the legislation violated free speech rights. Arguing that the proposed regulations would have created an overly cautious and subsequently censored environment, they feared that either content monitors would have posed excessively strict standards to avoid potentially incriminating content or users would have refrained from posting at all. The White House, though a consistent advocate for the reduction of copyright infringement, similarly expressed concern that the legislation would have constrained the openness of the Internet and released a statement saying, “any effort to combat online piracy must guard against the risk of online censorship of lawful activity” (Nagesh & Sasso, 2012, para. 2). Technology industries as well as activists and legislators who opposed the bill worried about the future of the Internet and the potential detriment SOPA could have had on website users’ freedom of speech and expression.

### **“Internet Anarchy” and Other Reasons to Support SOPA**

On October 26, 2011, the same day SOPA was introduced, the American Federation of Musicians (AFM), American Federation of Television and Radio Artists (AFTRA), Directors Guild of America (DGA), International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts of the United States, Its Territories and Canada (IATSE), International Brotherhood of Teamsters (IBT), and Screen Actors Guild (SAG) released a joint statement on the benefits they believed the legislation would have had. In it, these Guilds and Unions, which represent the talent who create and promote the music, movies, television shows, and plays that comprise the American entertainment industries, claimed:

This legislation . . . will provide U.S. law enforcement agencies with the tools to protect American intellectual property . . . from foreign rogue websites that knowingly and deliberately engage in the illegal distribution of our content for profit. Left unchecked, these rogue websites threaten the vitality of the online marketplace by stealing the work of American innovators and undermining legitimate business. They profit by offering access to content that they had no role at all in creating or financing, and they threaten real jobs . . . of [people] whose livelihoods are dependent on the economic health of our business. (Joint Statement, 2011, para. 3-4)

This declaration of support from the groups representing content creators exemplifies the crux of the entertainment industries' single argument for the legislation, which can be further simplified into one word: piracy. Although this statement was released shortly after the bill was proposed and prior to the technology industries' protests, the sentiment it conveys is representative of the entertainment industries' stance for the entirety of the legislation's life. Most of SOPA's advocates framed their arguments through a firm refusal to compromise, though a few expressed willingness to make adjustments to the bill in recognition of the collateral damage it would have had. Throughout the media coverage of the legislation, there were more than twice as many articles referencing the need to end digital piracy than there were noting a desire to find a compromise. Those who were averse to finding an alternative solution enforced a strategy of presenting only one argument, combating copyright infringement, while adamantly rejecting the truth of the opposition's primary claims – albeit without evidence. They assumed that SOPA was the only solution to digital piracy, failing to consider the devastation the legislation would have had on the Internet and insisting that technology companies needed to be held accountable for facilitating illegal downloading. The few individuals who were open to

compromise, on the other hand, acknowledged the technology industries' concerns and were open to accounting for them in negotiating an alternative approach.

Media executives who displayed a reluctance to forfeit any of SOPA's provisions seemed to view the legislation as a time-sensitive issue that needed to be passed immediately regardless of its consequences, rather than a matter affecting multiple parties that should be handled reasonably and efficiently. Proponents of the bill as it was originally presented cared much more about its intention "to curtail the illegal downloading and streaming of TV shows and movies online" than any of the technology industries' fears (Wortham, 2012, para. 2). *The Hill* emphasized the entertainment executives' claims that "online piracy [steals] billions of dollars from businesses and [destroys] jobs," highlighting the way supporters focused only on how intellectual property theft affects media industries and almost entirely ignored these same anticipated costs on technology industries (Sasso, 2012b, para. 2). *The New York Times* also asserted that the lack of regulation impacts more than just the executives and allows copyright infringement to be "measured in less innovation and less economic activity," causing "creators [to] lose hope of making a living from their creations" (Going After the Pirates, 2011, para. 3). Though websites and other opponents of the legislation argued the negative consequences SOPA would have had on Internet business models, proponents of the bill cited the similar industry effects of *not* imposing such legislation. Solely concerned about the perils of digital piracy rather than the threats the bill posed to other businesses, media industries presented a narrow reasoning for their stance. They offered a strong argument against online copyright infringement that supported the need for a law or system to eradicate the illegal behavior, but they failed to prove that SOPA was the best or only way to accomplish that goal.

In defending the bill, advocates drew on the need to protect intellectual property in order to save entertainment industries as opposed to identifying a particular merit of the legislation, such as a clause or method that would prove the bill effective in combatting digital piracy. Rather than explain how SOPA would be effective as a legislation in comparison to other ways of dealing with the issue, proponents of the bill focused exclusively on the benefits of their end goal, the elimination of copyright infringement. Arguing only that online piracy is a popular, yet illegal act that causes significant destruction to media industries, the bill's supporters seemed to blindly enforce this claim without accounting for the fact that many opponents agreed with the need to curtail piracy, but not with the legislation's approach. Often using words such as "necessary" or "need" to emphasize the bill's importance, supporters tended to falsely assume that SOPA was the only way of combating piracy rather than the most sufficient means of doing so. Eager to enact any law that would make it more difficult for pirates to illegally access content, proponents seemed to believe that simply because the bill would be efficient in reducing piracy, it was essential to accomplishing this.

Though opponents put forward valid evidence and detailed explanations as to how the legislation would have had disastrous effects on the Internet's development, proponents placed their emphasis on the one argument of eliminating piracy, while shutting down criticisms without substantive reasoning. In response to technology industries' concerns that SOPA's ambiguous language would allow for loose interpretation, and thus unintended consequences for legitimate websites, advocates of the bill merely asserted that "their fears are groundless" (Nagesh, 2012, para. 2). Lamar Smith (R-TX), the U.S. Representative who first introduced the bill, was quoted several times throughout the publications maintaining that the legislation would only affect rogue websites that illegally host copyrighted content, not law-abiding platforms. In a letter to the

editor of *The New York Times*, Smith contended, “SOPA targets only foreign Web sites that are primarily dedicated to illegal and infringing activity. Domestic Web sites, like blogs, are not covered by this legislation” (Smith, 2012, para. 2). Though he repeatedly made this claim in response to technology industries’ argued concern with the bill, he offered no evidence to support it. Similarly, Michael O’Leary, Chairman of the Motion Picture Association of America (MPAA), rejected the opposition’s arguments that the bill would lead to unreasonable burdens and overregulation, classifying “the rhetoric from the opposition” as an “inside the Beltway trick” (Johnson, 2011a, para. 11) and accusing opponents of “screaming regulation” to “curry favor with Republicans” (Nagesh, 2011b, para. 2). Writing off opponents’ fear as a scheme formulated to gain legislators’ support, O’Leary undermined criticisms of the bill without explanation.

Advocates made similar statements in rejecting the opposition’s concern that SOPA would stifle innovation and violate the First Amendment right to free speech. Though no proponent offered evidence to combat the technology industries’ arguments, many invalidated the doubts by deeming them illegitimate or hypocritical. Contending that “there is no inconsistency between protecting free speech and endorsing this bill,” O’Leary labeled the websites’ anxiety over freedom of expression as “overblown” without providing reason to believe his claim (Nagesh, 2011b, para. 2). The Directors Guild of America similarly pleaded that they were “greatly offended that [their] advocacy...[had] turned into an implication that [they] promote censorship” (DeGennaro, 2012, para. 5). Rather than giving proof or insight into why they adamantly insisted that consumers and legitimate sites would not be harmed, the entertainment industries simply shut down the conversation, denying the validity of arguments made against the legislation.

Other SOPA supporters, though not offering evidence to falsify free speech concerns, dismissed them on the grounds of hypocrisy. Rupert Murdoch, Founder and CEO of News Corporation, tweeted in January 2012, “Nonsense argument about danger to Internet. How about Google, others blocking porn, hate speech etc.? Internet hurt?” (Carlson, 2012b, para. 9). While he did not deny the accusation that the legislation would have restricted free speech, Murdoch accused web firm executives of having devised algorithms that already censor users from other types of content, such as obscenities or offensive remarks. Legislators who supported the bill also cited similar practices of search engines “discerning what material infringes and what does not,” implying that the “free speech issue amounted to a double standard” (Johnson, 2011b, para. 13). In an attempt to undermine technology industries’ arguments against the legislation, advocates either denied the criticisms or referenced instances with similar consequences, but failed to offer justification as to why the opposition’s claims were unsound.

In addition to rejecting opponents’ doubts about the bill, many entertainment executives were adamant that search engines and other websites linking to platforms that allow illegal access to copyrighted material need to take responsibility for facilitating piracy. Deeming any of the search engines’ methods of restricting intellectual property theft inefficient, Murdoch argued that copyright infringement is made easier by the sheer presence and large quantity of links available on Google. He noted the severity of this issue in a tweet, saying, “Just been to google search for mission impossible (*sic*). Wow, several sites offering free links. I rest my case” (Carlson, 2012a, para. 5). Though proponents insisted that legitimate websites would not be harmed by overregulation or censorship, according to *The New York Times*, they also contended that the technology industries had to be held accountable for “aiding and abetting thieves on a broad scale” (Carr, 2012, para. 12). Search engines permit illegal access to intellectual property

by offering links to websites that pirate content, and advocates of the legislation insisted that this feature be punished with severe consequences.

Chris Dodd, Chairman and Chief Lobbyist for MPAA, explained the position that technology industries need to take responsibility for facilitating digital piracy by comparing the illegal act to a bank robbery. Dodd claimed that just because “a guy that drives the getaway car didn’t rob the bank necessarily” they are still “accessories” in the offense since they are guilty of getting the robber to and away from the scene of the crime and thus need to be held accountable for enabling the illegal action (Johnson, 2011c, para. 3). Advocates of SOPA argued that simplifying access to copyright infringement accelerates the process of illegally downloading content, and such offenders must be held responsible for playing that role. Cary Sherman, Chairman and CEO of the Recording Industry Association of America, expressed in a Q&A with *Billboard* that while he is “all for Internet freedom,” he could not stand for the “Internet anarchy” that results from “organizations that would just prefer to allow people to profit from piracy and creators’ rights to be stolen, rather than . . . interfere with . . . total freedom of the Internet” (Hau, 2011, para. 11). Sherman and other advocates insisted that the search engines and sites that feared SOPA’s impact on net neutrality had to consider their positions in exacerbating the digital piracy issue as well as their subsequent responsibility to act on it.

While the majority of publications cited supporters who tenaciously dismissed the technology industries’ contentions and insisted that search engines be held accountable for permitting access to illegal content, a handful of sources expressed a willingness to concede certain terms of the legislation and were more receptive to compromising with the opposition. Such proponents wanted to make revisions to SOPA rather than start from scratch and several – including Jonathan Lamy, Senior Vice President for Communications at RIAA – encouraged “all

players in the Internet chain who profess to care about copyright protections” to “come forward with meaningful solutions” (Nagesh, 2011b, para. 2). In a failed effort to appease some of the opponents’ criticisms by tightening the language, legislators unveiled an amended version of SOPA on December 15, 2011, a month before the bill’s failure. This new proposal removed a clause pertaining to Domain Name System blocking and made it so that the regulatory power was no longer in the hands of magistrate judges and, rather, the International Trade Commission (ITS), a more neutral party that has a much better understanding of trade policy and the Internet. The bill’s opponents, however, were evidently not convinced that technology industries were safe from the legislation’s anticipated effects. Despite the display of some advocates’ openness to compromise on SOPA’s provisions, the amendments were not significant enough to affect the adamancy of either side of the conversation. In fact, the arguments presented by both the proponents and opponents did not noticeably change within the legislation’s media coverage after the revisions were introduced.

### **“Lessons They Learned”: SOPA Aftermath**

The tabling of SOPA at the end of January 2012 resulted in mixed reactions from both the advocates and the opponents of the legislation. Remaining unanimous on the need to eliminate digital piracy, most proponents’ initial reaction was to blame the bill’s failure on technology industries. Many of the entertainment executives and legislators who maintained their support of the bill accused web firms of spreading misinformation to their users and subsequently garnering an unfair growth in opposition. Though SOPA opponents labeled these allegations as misguided due to supporters’ ignorance about technology and the Internet, many web firm executives agreed that the prevalence of copyright infringement would need to be



addressed, and that a solution would require trusting the entertainment industries. Similarly, as media executives looked toward the future in an attempt to identify a more appealing approach to digital piracy for all implicated parties, their original reaction softened and many expressed a willingness to compromise with technology industries.

As legislators withdrew their support for SOPA and it became evident that the bill would be placed on indefinite hold, advocates' immediate response was anger and frustration directed at technology industries and their online protests. Referring to Wikipedia's blackout as a "publicity stunt," Lamar Smith (R-TX) accused the site of "spreading misinformation" and "promoting fear instead of facts" (Nagesh & Sasso, 2012, para. 2). SOPA supporters criticized online protests for relaying what they believed to be false information to users and thus garnering massive, unsubstantiated opposition to the legislation. Chris Dodd, Chairman and Chief Lobbyist for MPAA, similarly claimed that SOPA fell prey to "misinformation – spread both knowingly by those who have a financial interest in the status quo and by those who are well-intentioned but misled" (Johnson, 2012a, para. 17). Blaming the websites that led protests for deliberately using their position to convey lies and consequently gain support from innocent, susceptible users, entertainment executives believed that the bill failed undeservingly.

Supporters of SOPA additionally defended the legislation by claiming that the web firms had a more attractive message than the entertainment industries. Proponents such as Dodd complained that "the tech sector was able to mobilize supporters by casting the issue as a personal one for . . . their consumers and users, while the showbiz message came across as one trying to protect its revenue stream" (McNary, 2012, para. 11). Advocates recognized that the information presented by the online protests made Internet users feel threatened, whereas the supporters' message seemed irrelevant to entertainment consumers. They realized that the public

was more likely to join the side of the debate that directly impacted them than the side that appeared as a big business solely concerned with money. Further, an MPAA executive claimed that “the film and television industry . . . [is] not a victim that garners a lot of sympathy to the average citizen,” noting that many of the young people who illegally download content cannot perceive the extent to which their actions impact “all the stars [who] make big money” (Johnson, 2012c, para. 7). Advocates of the bill argued that the technology industries garnered support for their stance as a result of deception, an appealing message, and the apparent widespread view of entertainment industries as wealthy and greedy.

Opponents rejected the notion that their online protests were spreading misinformation on the grounds that technology industries understand the Internet better than the bill’s proponents. Contrary to the supporters’ claims that the technology industries’ fears were unfounded, the opposition’s concern that the legislation would destroy the Internet was based on a comprehensive understanding of the inner-workings of the complex global computer network. According to *The New York Times*, critics of the advocates’ statements contended that “given both Congress’s and the entertainment industry’s historically wobbly grasp of technology . . . they [should not] be the ones re-engineering the Internet” (Carr, 2012, para. 26). The legislation’s opponents responded to supporters’ unsubstantiated dismissal of their concerns and accusation that they were disseminating false information with the rebuttal that technology industries are better able to perceive projected effects of the bill’s language than entertainment industries or legislators. Technology firms have an understanding of the features and affordances of the Web that cannot be matched by “old-school content groups [that] don’t understand the Internet” (Shapiro, 2012, para. 1). Since the websites’ concerns of unreasonable burdens, unintended consequences, stifled innovation, and free speech were based on this adept

knowledge of the Internet, they should not have been dismissed by those without similar competency.

Eventually, proponents of the bill resolved to a drastically different view of the legislation's failure. Recognizing the potential of online protests and the strength of the technological community, entertainment executives came to terms with the need to compromise with web firms in order to construct a more thoughtful solution that appeases both media and technology industries' desires to maintain profits. Several of the "highest-paid executives at the world's largest media companies" such as Viacom, WME, RIAA, and MPAA discussed "lessons they learned from [the] failed industrywide attempt to pass antipiracy legislation," and even admitted fault in the way they rushed the bill (Chozick, 2012, para. 2). Media industries' approach in proposing and advocating for the bill was a hasty effort to eliminate piracy that could have had disastrous collateral damage on technology industries. Proponents, confident in their message, were unprepared for the considerable resistance they faced. The participatory nature of the Internet allowed technology industries to garner opposition to the legislation in unprecedented numbers, and media industries realized that without a change in strategy they would continue to face this challenge in the future. Learning from these mistakes, Dodd pushed for "closer cooperation between Hollywood and Silicon Valley" and noted that both sides "would be better served in the long run by finding that common ground" and avoiding "a repetition of what went on" during the SOPA debate (McNary, 2012, para. 1-3). Finally acknowledging that compromise is essential to finding an effective solution that would work for both sides, entertainment executives were committed to cooperating with technology industries to make progress on settling the digital piracy issue.

Looking toward the future, the media and technology industries even began proposing changes to their approach to make digital piracy deliberations more effective. Previous supporters of the bill, such as Dodd and Cary Sherman, Chairman and CEO of RIAA, found “the legislative route” to “no longer [be] appealing or practical” (Chozick, 2012, para. 17) and instead “emphasized cooperative agreements” (McNary, 2012, para. 4). The original proponents of SOPA suggested that the needs of both industries would be better met if they created a solution on their own terms, as opposed to involving government regulation. According to *Daily Variety*, technology industries also expressed a preference for collaboration, recognizing that a “significant lack of trust between Hollywood and Silicon Valley” has to be overcome and, in order to devise an efficient solution to digital piracy, “there will have to be unanimous agreement” that is “acceptable to all the stakeholders” (Johnson, 2012b, para. 11-17). Both sides agree that copyright infringement is an issue that needs to be solved, but prior to the SOPA controversy the entertainment and technology industries had different conceptions of how they should accomplish that feat. The failure of SOPA revealed that finding a more viable solution to digital piracy will require a willingness from the entertainment and technology industries to compromise; media industries will have to take a more flexible and thorough approach to deliberations, and technology industries must both acknowledge their role in facilitating piracy and agree to contribute to a solution.

## **Discussion**

This study’s findings confirm that the relationship between the media and technology industries cannot be ignored in discussions of digital piracy. As technology and the Internet have developed, the number of ways to access and consume media content have grown exponentially.

These technological affordances not only disseminate media and make content more accessible to consumers, but they also facilitate intellectual property theft. Internet features that simplify access to music and videos, such as linking and participatory websites, are also used by pirates to illegally download, replicate, and share that same media content. Though entertainment industries are arguably the businesses most directly affected by digital piracy, the SOPA controversy made it evident that an effective solution must involve contributions from technology industries. Previous proposals to curtail online copyright infringement have been unsuccessful due to media industries and legislators' ignorance about technology's complexities and disregard for the destruction that the suggested solutions would have caused to both the landscape of the Internet and online companies' business models. This case shows that any future attempt to combat digital piracy must be the result of a collaborative effort between the media and technology industries, accounting for the needs and priorities of both.

Prior to the SOPA controversy, media industries seemed eager to enforce any legislation that would succeed in eradicating digital piracy, regardless of the collateral damage it would impose on technology industries. Since media industries rely on the Internet for the widespread distribution of content, it would be wise for entertainment executives to carefully consider technology industries' needs when discussing solutions to online copyright infringement. Media and technology are indubitably linked, so a realistic response to digital piracy – an act that involves the use of technology's affordances to illegally access media content – must be acceptable to both industries. Media industries, however, must be more mindful of the fact that copyright infringement does not directly impact the sales and revenue of technology industries. Consequently, web firms' motives to finding a solution, unlike those of entertainment executives, are more ethical than financial. Advocates for eliminating digital piracy must

therefore adjust their expectations of the concessions that technology industries will make. Rather than require websites to modify their corporate practices to conform to their demands, it would benefit entertainment industries to be more realistic with their requests and more willing to forfeit a bit of control in the deliberation process. Similarly, technology industries must acknowledge and take responsibility for the role they play in digital piracy. Since the Internet's affordances facilitate illegal access to media content, a feasible solution to curtailing digital piracy will require involvement from websites. Technology industries must make algorithmic adjustments, create a new system that restricts access to illegal sites, or agree to take on additional responsibility monitoring user-generated content. It may warrant changes in either industries' business models, but in order to determine a more effective solution to piracy, the media and technology industries will need to compromise.

This case also shows that the relationship between the media and technology industries represents a broader communications issue. More than determining an effective solution to digital piracy, this study's findings reveal the importance of attending to the different factions involved during the deliberation process. The knowledge that this matter affects multiple industries is essential to the structure of the debate, adding dimensions to an issue that has previously been viewed solely from the perspective of media industries. This study demonstrates that in addition to the solution that comes of it, the shape, texture, and movement of the debate are equally vital considerations to research on this topic. Value exists in taking this comprehensive approach, evaluating a topic from the perspectives of all implicated industries, in realms beyond intellectual property theft. The alignment of the technology and entertainment industries affects more than just how people download content; it influences the location, device, and frequency with which they consume it. Issues such as accessing the Internet on mobile

devices, the ability to share media content on social media, binge consumption on streaming services, and technology's influences on social norms are other challenges that affect both media and technology industries. Similar to digital piracy, when negotiating the legality of streaming services or the use of mobile devices to access content, media and technology executives need to account for the effects that their decisions have on other industries' products and services.

Recognizing the structure of all involved businesses is essential to having productive conversations about the use of technology to access media content.

After the failure of SOPA, media and technology industries started to identify the need to compromise and even made some progress toward finding a successful solution to digital piracy. In February 2013, Internet Service Providers (ISPs) implemented a Copyright Alert System (CAS), a collaborative effort between both the technology and entertainment industries to combat piracy. This six strike warning initiative informed pirates that they were breaking the law and educated them on legal alternatives (Lesser, 2013). After the notices had been administered six times, ISPs had the option of either slowing down or revoking a user's service. Due to its inefficiency in reducing peer-to-peer file sharing, however, this system was repealed in January 2017 (Kravets, 2017). Despite its failure, the Center for Copyright Information released a statement noting the success of CAS in regards to "educating many people about the availability of legal content" and "issues associated with online infringement." They also insisted that despite the end of this particular program, "the parties remain committed to voluntary and cooperative efforts" (Statement on the Copyright Alert System, 2017, para. 2). Though the industries' first attempt at collaboration did not completely eradicate the digital piracy issue, it was a step in the right direction. With continued commitment to protecting intellectual property and willingness to

compromise, the media and technology industries will likely continue to find effective solutions by trial and error.

This cooperation between industries has also been displayed over the years following SOPA by the implementation and growth of streaming services, such as Netflix and Spotify. These services reflect a change in media industries' practices, providing consumers with legal and convenient methods of consuming content that researchers speculate are the reasons for a recent reduction in digital piracy (Titcomb, 2016). As previously noted, digital piracy scholars in their research on copyright law and entertainment executives in media publications on SOPA have deemed legislation and other negative consequences ineffective in deterring illegal downloading. The recent shift in industries' practices illustrated by the widespread use of streaming services in place of a la carte alternatives has demonstrated the seemingly successful use of positive incentives to discourage piracy. The popularity of services such as Netflix and Spotify makes it apparent that the media and technology industries are collaborating on more than just digital piracy issues, allowing both sides to develop their businesses without interfering with the others' practices. Though copyright infringement remains a primary concern for entertainment industries, CAS and streaming services represent promising, progressive movement toward a more effective digital piracy solution that does not disrupt web firms' business models.

This case shows the value of studying the perspectives of media and technology industries on digital piracy in tandem. It also demonstrates the significance of analyzing failed legislative responses to both online copyright infringement and other communications issues regarding the relationship between these industries. For instance, researchers could also perform a discourse analysis on CAS or the Cyber Intelligence Sharing and Protection Act (CISPA),



another 2011 unpassed bill that had the intention of protecting intellectual property on the Internet. Insight into the discourses surrounding these failed approaches may reveal other industries' involvement or identify additional factors that must be considered in the deliberation processes. Industries can learn from such research and make informed decisions based on scholars' findings. Accounting for the input of all implicated parties in both scholarly literature and industry debates could facilitate the production of an effective solution and contribute to avoiding controversies similar to the one following SOPA's introduction.

While this study takes a comprehensive approach by examining the stakes involved in digital piracy for both media and technology industries, scholars could also thoroughly analyze the audiences' perspectives on proposed solutions. Audiences and consumers are key elements of both media and technology industries' decision-making processes and would thus add another crucial element to consider in digital piracy discussions. For instance, scholars could observe or interview consumers to identify their consumption values and practices. This would allow researchers to analyze the issue from a leisure and entertainment perspective in addition to a business standpoint. Though technology and media industries strive for innovation, they need to also consider consumer satisfaction and receptiveness, which could be studied and theorized by scholars. Data and analysis on consumers' feelings toward digital piracy and how that affects their media consumption habits would allow industries to evaluate potential copyright infringement solutions from not just other industries' perspectives, but from their audiences' as well. Integrating these into future deliberations about digital piracy will better allow media and technology industries to take a holistic approach in determining an efficient solution that does not disrupt either industries' practices.

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