



PIPA, SOPA and the OPEN Act Quick Reference Guide

Contact: Corey Williams
American Library Association
cwilliams@alawash.org

Three copyright-related bills are currently in play at the start of 2012 – all of which take aim at any website beyond U.S. borders that distribute counterfeit or copyright infringing products. All three bills operate under the assumption that there is a problem that needs to be solved – and the best, or only, way to combat online infringement overseas is with *more* law targeted at foreign websites. These bills have the potential to negatively impact fundamental library principles. The following chart is for quick reference (not meant to be comprehensive), and outlines the primary issues and concerns of interest to the library community and those who use the Internet.

	PIPA <u>S. 968</u> The Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act of 2011	SOPA <u>H.R. 3261</u> The Stop Online Piracy Act	OPEN Act <u>S. 2029</u> Online Protection and Enforcement of Digital Trade Act
BILL BASICS			
<ul style="list-style-type: none"> ▪ Introduced ▪ Sponsor ▪ Current status 	<ul style="list-style-type: none"> ▪ May 12, 2011 ▪ Senator Leahy (D-VT) ▪ Reported out of Senate Judiciary Committee on December 17, 2011; Senate cloture vote scheduled for January 24, 2012 	<ul style="list-style-type: none"> ▪ October 26, 2011 ▪ Rep. Smith (R-VA) ▪ House Judiciary Committee markup resumes January 17, 2012 	<ul style="list-style-type: none"> ▪ December 17, 2011 ▪ Sen. Wyden (D-OR) ▪ Referred to Senate Finance Committee
BILL STRUCTURE			
<ul style="list-style-type: none"> ▪ What the bill does and how would it be enforced 	<ul style="list-style-type: none"> ▪ U.S. Department of Justice (DOJ) files case in court resulting in blocking access to and cutting revenue sources for websites ▪ Gives copyright holders additional power to sue “rogue” or infringing web sites ▪ Encourages ad networks (e.g. Google, AdSense) and payment processors (e.g. MasterCard) to cut off service to websites (Section 5) 	<ul style="list-style-type: none"> ▪ DOJ files case in court resulting in blocking access to and cutting revenue sources for websites ▪ Gives copyright holders additional power to sue “rogue” or infringing web sites ▪ Encourages ad networks, payment providers, search engines, Internet Service Providers (ISPs), domain name registrars, etc., to cut off service to websites (Section 105) ▪ Title II of the bill includes provisions related to streaming and other activities 	<ul style="list-style-type: none"> ▪ U.S. International Trade Commission (ITC) proceeding resulting in cutting revenue sources for websites

* As of January 10, 2012. Since the bills are in the midst of the legislative process, they are subject to change at any time. For example, some of the concerns with PIPA may be addressed before the cloture vote.

** Additional information about the bills and the American Library Association’s response (including letters sent) is available at <http://ala.org/ala/issuesadvocacy/copyright/copyrightlegislation/index.cfm>.

	PIPA S. 968	SOPA H.R. 3261	OPEN Act S. 2029
ISSUES & CONCERNS			
Increases library exposure to copyright liability		<ul style="list-style-type: none"> Changes scope of “willful infringement” with potential to capture ordinary infringement – raising stakes of statutory damages sought up to \$150,000 per work Increases criminal sanctions for streaming via internet, potentially including works transmitted to classrooms (e.g. distance ed.), and even of a non-commercial nature (e.g. libraries and non-profit ed. institutions) 	
Erodes 1 st Amendment free speech rights and intellectual freedom (chilling effect on online activity and speech)	<ul style="list-style-type: none"> Forces U.S. to join at least 13 internet <i>censoring</i> countries¹ by requiring gov’t sanctioned blocking of web sites 	<ul style="list-style-type: none"> Force U.S. to join at least 13 internet <i>censoring</i> countries by requiring gov’t sanctioned blocking of web sites 	
Weakens cyber security ²	<ul style="list-style-type: none"> Requires web site blocking which can undermine cyber security as users may attempt to evade blocking 	<ul style="list-style-type: none"> Requires web site blocking which can undermine cyber security as users may attempt to evade blocking 	
Threatens Privacy	<ul style="list-style-type: none"> Significantly increases internet companies’ incentive for <i>surveillance</i> of online activity and speech of users 	<ul style="list-style-type: none"> Significantly increases internet companies’ incentive for <i>surveillance</i> of online activity and speech of users 	
Threatens activities of legitimate U.S. websites with user-generated content (e.g. Facebook, Twitter, YouTube, etc.)	<ul style="list-style-type: none"> Encourages ad networks and payment processors to cut off service to user-generated websites 	<ul style="list-style-type: none"> Encourages internet companies to cut off service to user-generated websites 	
Imposes U.S. centric copyright law across international borders	<ul style="list-style-type: none"> Blocks access to foreign websites, cuts off payment processing and ad networks 	<ul style="list-style-type: none"> Blocks access to foreign websites, payment processing and ad networks 	<ul style="list-style-type: none"> Cuts off payment processing and ad network service to foreign websites
BOTTOM LINE			
ALA’s position	Strongly opposes	Strongly opposes	Still under review

¹ See TechDirt’s [post](#) on the list of Internet Censoring Countries

² Please see Sandia National Labs [letter](#)