

## Anti-piracy site-blocking laws: what you need to know

by Tim Biggs via bryan - SMH Tuesday, Jun 23 2015, 11:37am

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In a nutshell, the new [anti-piracy laws](#) which passed through the senate on Monday, are designed to make it more difficult for Australians to access websites that film, TV and music companies say are hosting their content without permission.



Once implemented, the federal government says the laws will protect the viability and success of creative industries while restricting the profitability of sites that facilitate piracy.

"Australians love creative content," government frontbencher Concetta Fierravanti-Wells told the Senate.

"They need to be reminded that if they take too much without giving back, they will jeopardise the content that they love."

Separate to the current legal battle over whether rights holders should be able [to get at pirates](#) directly, those who regularly use torrenting sites or illicit video streaming to access their content are not at risk of prosecution from these new laws.

But they may soon find their bookmarks of favourite sites point only to dead ends.

### How does the law work, and what will change?

Nothing about the Australian internet will immediately change, but content rights holders will soon begin to make court cases to impose injunctions on specific sites.

In practice, the rights holder will point to a foreign site that gives access to their content. The Federal Court will examine the site to see if its "primary purpose" is "to infringe, or to facilitate the infringement of, copyright". If so, the court will order Australian internet service providers (ISPs) like Telstra, iiNet and TPG to prevent their customers from accessing that site.

Any Australian that types that website's URL in their address bar will thereafter effectively hit a dead-end and will not be able to access the site. They will instead see a landing page informing them of the court order.

Torrent-hosting sites like The Pirate Bay and KickAssTorrents are expected to be among the first targeted as, despite the fact that all content is provided by users and is not necessarily for the purpose of piracy, it should be fairly easy to argue the primary purpose of these sites is to access copyrighted works without paying for them.

It will be up to the court's interpretation whether a site like Daily Motion, a user-driven video site that contains a lot of copyrighted work as well as plenty of original content, has the "primary purpose" of infringing copyright.

### **What are some of the potential issues?**

The Australian Greens, along with a handful of crossbench senators, opposed the laws. Chief among their concerns was the broadness of the laws' wording which they said could end up blocking completely legitimate sites.

It will be left to ISPs to decide how sites are blocked and, depending on how this is implemented, it could result in collateral damage. Federal government agency ASIC once [infamously blocked](#) access to about 250,000 innocuous websites when it instructed ISPs to block a particular IP address.

ANU's Dr Matthew Rimmer argues that several issues with the laws could cause sites that don't intend to host infringing material to be blocked, pointing to file-sharing sites like MEGA and Dropbox.

Dr Rimmer added that ISPs would be incentivised to not fight blocking orders, as they will not have to pay court costs if they don't join cases to scrutinise them.

The Greens' bid to amend the laws, which ultimately failed, included giving any third party the right to review a website block, and tightening the definition of "primary purpose" and "facilitation" to make sure only sites flagrantly infringing copyright could be blocked.

"We are trying to minimise the risk of collateral damage," Greens senator Scott Ludlam said.

"Does anyone seriously believe that this scheme won't be expanded in the future to cover more categories of content? Of course it will. It has scope creep absolutely built into it. It is lazy, and it is dangerous."

### **Will Australians be able to circumvent the website-blocking?**

Yes. Since the blocking will be undertaken by ISPs, any service that hides a user's destination from an ISP (namely a virtual private network, or VPN) will allow access to the blocked websites.

VPNs and proxy servers work by sending all your web activity through an overseas server, which then connects to your destination and routes the content back to you. These services are commonly used in Australia to access overseas services like Hulu Plus or the US version of Netflix, as well as in countries like China to access blocked services like Google and Twitter.

Communications Minister Malcolm Turnbull has been explicit in stating the new laws are not designed to block VPN use, however protection for VPNs is not explicit in the law and there are still concerns that VPN use could eventually be targeted.

Could a rights holder, for example, point to a website promoting VPNs and argue that its primary

purpose was to facilitate copyright infringement? Blocking such sites would not technically stop VPN use, but it could make it very difficult for VPN companies to do business in Australia.

Even for Australians not willing or not able to use a VPN, the big players like The Pirate Bay have evaded similar measures in Europe by moving their entire sites to a new IP address with each blocking, keeping their users in the loop on social media.

The government has agreed to review the anti-piracy laws after 18 months.

- with AAP

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*[Editor's note:*

*The simplest solution for average users is to use [Tor browser](#) for blocked sites as ISPs would probably take the least troublesome approach to blocking.]*

See also:

<http://tinyurl.com/pcspkqm>

<http://tinyurl.com/pev5q5k>

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Jungle Drum Prose/Poetry. <http://jungledrum.lingama.net/news/story-1680.html>