



## The Daily Dish

# Site Blocking and Online Piracy

DOUGLAS HOLTZ-EAKIN | JULY 18, 2024

Now, Eakinomics is not saying that nothing ever changes. Nor would it assert that the issues remain the same. But in some instances...

Consider this excerpt taken from a 2011 [AAF post](#):

*[A bipartisan group of lawmakers] intended for the Stop Online Piracy Act to increase the government's ability to disable websites deemed "foreign infringing sites." A foreign infringing site is any "US Directed Site" that actively breaks the terms of a US law, agreement, or copyright. While this bill targets foreign sites, it applies to all sites that are "US Directed," in other words, any site that provides content accessible by a US consumer.*

Now compare that with:

*Earlier this year, the [CEO of the Motion Pictures Association \(MPA\)](#) announced that the organization would begin working with Congress to pass legislation requiring the blocking of websites that host pirated content. One estimate in 2019 found that piracy cost the U.S. film and TV industry between [\\$29 billion and \\$71 billion annually](#). One of the key challenges, however, is that the Digital Millennium Copyright Act, the law governing the notice and takedown of copyrighted material, can't adequately stop online piracy when websites are dedicated to allowing users to continually upload new infringing content, especially when the websites are outside of the jurisdiction of U.S. courts.*

Just hazarding a wild guess here that online piracy of copyrighted material remains an issue nearly 15 years later. In addition, some people see as the solution to shut down the entire

site hosting the pirated material, and not just take down the material and block the individual.

Actually, it is not a guess because we learned it from Jeff Westling's [new primer](#). As noted above, the MPA - which has a legitimate complaint about piracy - would like a new law requiring site blocking for websites that host illegal content (and these remain largely international websites). This would necessitate requiring the copyright holders to prove piracy in court, which would generate an order requiring internet service providers and others to block the website entirely.

The downside is that there is the risk of "blocking...legitimate websites, limiting free speech online, or subjecting the intermediary to unnecessary burdens or additional liability." In other words, while this type of approach may work, drafting such legislation is not a no-brainer; there are serious trade-offs in play when formulating an anti-piracy regime. Perhaps that's why the issue has festered for nearly 15 years.