

FOR BACKGROUND PURPOSES

COMBATING ONLINE INFRINGEMENT

PROTECTING AMERICAN JOBS, AMERICAN INNOVATION, AND AMERICAN CONSUMERS

The bipartisan Combating Online Infringement and Counterfeits Act was introduced on September 20, 2010. The legislation will give the Department of Justice tools to track and shut down websites devoted to providing access to unauthorized downloads, streaming or sale of copyrighted content and counterfeit goods. These illegal products range from new movie and music releases, to pharmaceuticals and consumer products.

The Combating Online Infringement and Counterfeits Act targets the worst online offenders.

FACT: According to estimates, intellectual property theft costs the U.S. economy more than \$100 billion every year. The pervasive problem of piracy and counterfeiting online lures consumers to sophisticated and well-designed websites devoted almost exclusively to offering access to illegal products. This hurts the American economy and costs American jobs.

FACT: Many of these websites are foreign-owned and operated, and there is little the Department of Justice can do today to stop them from stealing American property and targeting American consumers. The Combating Online Infringement and Counterfeits Act provides the Justice Department with important new tools to work with Internet service providers, payment processors, and online ad network providers with a presence in the United States **to prevent illegal, counterfeit goods from entering the United States.**

FACT: Trafficking in counterfeit goods and facilitating the illegal download of copyrighted materials is illegal under U.S. law. While U.S. law enforcement can prosecute this illegal activity in the United States, law enforcement does not currently have the tools to prevent the illegal importation of these goods from foreign countries. **This legislation will help to stem the import of these illegal counterfeit products, which place American consumers at risk.** American consumers deserve to have the confidence that our counterfeit and anti-pirating laws are being enforced.

FACT: Under this legislation, the Department of Justice cannot shut down or take action against websites dedicated to infringing activities without first seeking approval from a federal court. The Department must demonstrate to the court that the website's content either satisfies the existing threshold for civil forfeiture, or has a central purpose related to the offering of infringing content or counterfeit goods before the Court can grant a preliminary order to suspend the illegal activities.

FACT: The Combating Online Infringement and Counterfeits Act protects website owners and operators, as well, allowing them to take action to have the court order lifted if they take effective steps to exclude pirate or counterfeiting activity from the site.

BOTTOM LINE: The Combating Online Infringement and Counterfeits Act is specifically drafted to target websites primarily designed to market counterfeit goods and pirated materials, and that have no demonstrative purpose other than the marketing of these goods. **These "worst of the worst" online websites knowingly break the law,** and in some instances, threaten the welfare of American consumers. **The legislation does not target the many user-generated websites, including social-networking sites, which are well outside the scope of this legislation.**

There is broad support for the Combating Online Infringement and Counterfeits Act.

“The Chamber commends you for the thoughtful framework laid out in the [Combating Online Infringement and Counterfeits Act] to attack the growing problem of online IP theft. While no single effort can entirely resolve this massive problem, S. 3804 is a critical step in the right direction.” – *Chamber of Commerce of the United States of America, September 21, 2010*

“While counterfeiters have demonstrated ingenuity and agility in exploiting new technologies in order to profit at the expense of legitimate manufacturers, **the [Combating Online Infringement and Counterfeits Act]...provides the Department of Justice with important new tools to ensure that law enforcement will likewise have the agility needed to address these criminal operations...**We also commend you for your efforts to bring together a variety of stakeholders – IP owners, internet service providers, and payment processors – to address the problem of rogue websites.” – *International Anticounterfeiting Coalition, September 20, 2010*

“This legislation will make it easier to shut down ‘rogue’ websites which are dedicated to stealing the television programs and sound recordings created by our members...We applaud you for your leadership and commitment to the protection of our intellectual property...” – *American Federation of Television and Radio Artists, AFL-CIO, September 24, 2010*

“The Coalition Against Counterfeiting and Piracy...commends you for introducing S. 3804, the ‘Combating Online Infringement and Counterfeits Act.’ **This legislation would protect American workers and create new jobs.** There are virtually countless websites devoted to facilitating the sale of counterfeit products over the Internet...These websites represent the worst of the worst on the Internet, and have no place in a legitimate online market.” – *Coalition Against Counterfeiting and Piracy, September 21, 2010*

And support from: American Federation of Musicians of the United States and Canada, AFL-CIO; American Federation of Television and Radio Artists (AFTRA); Artists and Allied Crafts of the United States, Its Territories and Canada; The Coalition Against Domain Name Abuse; Directors Guild of America; Entertainment Software Association; International Alliance of Theatrical Stage Employees; International Trademark Association; MasterCard Worldwide; Moving Picture Technicians; National Music Publishers’ Association; Paramount Pictures; Recording Industry Association of America; Screen Actors Guild Software & Information Industry Association; Teamsters Joint Council 42