

COMBATING ONLINE INFRINGEMENT

PROTECTING AMERICAN JOBS, AMERICAN INNOVATION, AND AMERICAN CONSUMERS

Leading sponsors of the bipartisan Combating Online Infringement and Counterfeits Act have released a proposed amendment to the pending legislation. The amendment makes important revisions to the legislation in response to concerns from various stakeholders. The text of the amendment is available online.

The Combating Online Infringement and Counterfeits Act is sponsored by Senators Patrick Leahy (D-Vt.) and Orrin Hatch (R-Utah), and is cosponsored by Herb Kohl (D-Wis.), Chuck Grassley (R-Iowa), Dianne Feinstein (D-Calif.), Lindsey Graham (R-S.C.), Arlen Specter (D-Pa.), Tom Coburn (R-Okla.), Chuck Schumer (D-N.Y.), Dick Durbin (D-Ill.), Ben Cardin (D-Md.), Sheldon Whitehouse (D-R.I.), Amy Klobuchar (D-Minn.), George Voinovich (R-Ohio), Evan Bayh (D-Ind.), Lamar Alexander (R-Tenn.) and Kirsten Gillibrand (D-N.Y.).

Key Changes In Proposed Amendment

BACKGROUND: The Combating Online Infringement and Counterfeits Act will enable law enforcement to pursue websites that are solely dedicated to infringing activities, giving prosecutors the tools to shut down the “worst of the worst” online infringers. These websites harm the American economy, deprive American intellectual property owners of their rights, and cost American jobs. A proposed amendment to the legislation responds to various concerns from outside parties, while preserving the purpose of the legislation.

- The amendment will **strike provisions that would have authorized the Justice Department to publish a listing of domain names that provided access to websites dedicated to infringing activities, but against which it did not seek a court order under the Act**, in response to concerns from Internet service providers (ISPs), online companies, and public interest groups.
- The amendment will **ease the burden on ISPs and payment processors that are required to take action pursuant to this Act**. The amendment specifies that an ISP shall not be required to modify its network or facilities to comply with an order or take steps with respect to domain name lookups performed by others. In addition, the amendment requires only that ISPs and payment processors act as expeditiously as reasonable.
- The amendment will **provide more explicit protection from legal liability for any third-party registrar, registry, ISP, payment processor or advertising network** that takes action pursuant to this Act.
- The amendment will **require the Attorney General to develop a process** in consultation with other law enforcement agencies **to coordinate related investigations**

The Combating Online Infringement and Counterfeits Act will protect American consumers.

FACT: The growth of the digital marketplace has provided consumers with unprecedented access to products online. As the online marketplace eclipses commerce on Main Street, **we must give law enforcement the tools to protect consumers from counterfeit goods**, like counterfeit medications, counterfeit electronics and counterfeit home goods.

FACT: Fraudulent products can threaten American consumers’ health and safety. According to the [U.S. Chamber of Commerce](#), during the 2009 H1N1 virus outbreak, counterfeit Tamiflu was the most spammed pharmaceutical product. The Food and Drug Administration released public service announcements warning about the availability of counterfeit Tamiflu on the Internet. **The Combating Online Infringement and Counterfeits Act will allow law enforcement to protect American consumers from websites designed primarily to hock these kinds of counterfeit goods.**

FACT: Americans have come to trust online commerce, and rogue websites undermine that trust. Consumers deserve to have the confidence that the products they purchase and enjoy online are not counterfeit and illegal, and **the Combating Online Infringement and Counterfeits Act** strengthens law enforcement's ability to crack down on this illegal activity.

Broad Support for the Combating Online Infringement and Counterfeits Act

Support for the Combating Online Infringement and Counterfeits Act has come from several stakeholders, including labor groups, advocates for intellectual property protections, the music industry, and the movie industry, including: [American Federation of Musicians of the United States and Canada, AFL-CIO](#); [American Federation of Television and Radio Artists, AFL-CIO](#); [Artists and Allied Crafts of the United States, Its Territories and Canada](#); [Association of American Music Publishers, Inc.](#); the [Chamber of Commerce of the United States of America](#); [Coalition Against Domain Name Abuse](#); [Coalition Against Counterfeiting and Piracy](#); [Directors Guild of America](#); [Entertainment Software Association](#); [International Alliance of Theatrical Stage Employees](#); [International Anticounterfeiting Coalition](#); [International Trademark Association](#); [MasterCard Worldwide](#); the [Motion Picture Association of America](#); [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](#)