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News | 07.06.2012

## **50 reasons to reject ACTA**

### **The reasons the matter to you**

The vote of the European Parliament will be decisive for the future of ACTA. It has already been rejected by the Development, Civil Liberties, Legal Affairs, and Industry committees in the European Parliament, but the big votes are still to take place in the lead Trade committee and with the final Parliament vote. With pro-ACTA lobbying efforts rising by the day, this is no time to reduce the pressure.

All aspects of the opposition to ACTA deserve to be taken into consideration. Many points have been developed inside and outside the Parliament and argued as grounds to reject it. From the preservation of due process to the freedom to conduct business, from the freedom of expression to the protection of generic competition, we made a sample list and sought and gathered more reasons on our webpage.

The following are a list of 50 Reasons to Reject ACTA, gathered with your help, that we will use to convince our fellow MEPs.



1. ACTA is bypassing international fora, such as WIPO and WTO, which is particularly worrying considering the magnitude of the issues it is dealing with.
2. ACTA was negotiated in a totally non transparent way, which is unacceptable considering the impact the agreement may have on citizens.
3. ACTA establishes the ACTA committee in Article 36 as its own governing body which could lead

to amendments of the agreement without any democratic control.

4. ACTA encourages a climate of relegation of the concerns of the public and of public interests that is counterproductive.
5. ACTA threatens the balance of copyright legislations.
6. ACTA locks us into an approach, when we don't know what will be, for instance, the technological evolution in the future.
7. ACTA can lead to the criminalisation of not-for-profit sharing.
8. ACTA encourages the targeting of technical intermediaries to be forced to remove material from the Internet, something that presently requires a court order.
9. ACTA imposes liability rules that will reduce the flexibility of European countries regarding limitation to remedies allowed by the TRIPS agreement to the disadvantage of EU companies, and particularly SMEs.
10. ACTA never mentions fundamental rights, when it clearly could jeopardise some of them and constitutes an offensive against the vision set out in the Universal Declaration of Human Rights.
11. ACTA has no provision on freedom of expression, when it can be used by governments and authorities to harm it.
12. ACTA threatens the protection of personal data (art 27.4), which in the case of dissidents, journalists, etc. opens the door to possible punishment and repression.
13. ACTA encourages (including in art. 27.3 and 27.4) measures that in many ways involve a form of monitoring of individual's use of the Internet.
14. ACTA can lead to the recording of personal data of Internet users (as they are defined by Art 2 of the Data Protection Directive 95/4/EC).
15. ACTA is a breach by corporate action to the right of privacy, to data protection, and to the confidentiality of communications, protected by Art 8 of the European Convention on Human Rights and art 7 and 8 of the Charter of Fundamental Rights of the EU.
16. ACTA endangers freedom of expression.
17. ACTA establishes legal uncertainties on many levels (art 19) which understandably generates fears from individuals as well as from businesses.
18. ACTA leaves key terms undefined and open to interpretation ("commercial scale", "aiding and abetting", etc).
19. ACTA imposes criminal sanctions (for "aiding and abetting") that are highly problematic.
20. ACTA allows criminalisation to encompass trivial copyright infringement out of proportion and unreasonable in the face of most national legislation.
21. ACTA will have a high cost of maintenance, which in itself is questionable from the point of view of government expenditure, especially in the context of the current economic crisis.
22. ACTA allows the search of details of internet users in breach of due process.
23. ACTA allows pre-emptive sanction, before due process and therefore erodes the rule of law.
24. ACTA does not guarantee fair trials.
25. ACTA favours assumption about infringement, but public action cannot be taken based on assumption and biased information given by the industry.
26. ACTA creates uncertainty for SMEs in ICT sectors that puts them at risk.
27. ACTA allows statutory damages which opens the door to litigation and the risk of large and out of proportion payments.
28. ACTA assumes that one copy equals one lost sale, which is an improper and misleading way to approach both copying and its impacts on business.
29. ACTA gives increasing power to large rights holders against smaller ones and SMEs.
30. ACTA does not encompass measures to avoid or sanction abuses from rights holders when it allows action irrespective of whether claims are legitimate or not.
31. ACTA raises serious competition problems.
32. ACTA weakens SMEs and their capacity to take part to innovation.
33. ACTA jeopardises the multi-stakeholder process in Internet governance that allowed for its

success.

34. ACTA paves the way to a balkanisation of the Internet.
35. ACTA is far from being limited to counterfeiting, contrary to the impression that the name of the agreement gives.
36. ACTA fuels the confusion between counterfeiting and patent infringement with a clear risk of decreasing access to generic drugs.
37. ACTA does not tackle the real problem of sub-standard medicines while lauding ineffective and dangerous actions in the name of health protection.
38. ACTA is misleading for policy makers as it creates a hodgepodge, lumping together of different notions and rights that should not be treated the same way.
39. ACTA could affect the whole supply chain of medicines in developing countries (third party liability can include the whole generic supply chain).
40. ACTA targets transit goods which creates an untenable situation from the point of view of trade rules.
41. ACTA mandates ex officio action at a lower standard of proof than TRIPS, such as ex officio border seizure.
42. ACTA escalates border seizure requirements while reducing safeguards.
43. ACTA allows countries to rely on customs officials to perform complex adjudications on IPR issues at the border that they cannot properly exert.
44. ACTA can potentially greatly expand the number of cases of trademark misuse: one could meet the ACTA definition of a crime by intentionally importing a good with a counterfeit label, even if that person did not intentionally create or use the counterfeit label itself.
45. ACTA will have a chilling effect on generic competition, and therefore consequences for access to medicines.
46. ACTA can threaten anybody being in transit with medicines in his/her luggage (5d).
47. ACTA threatens to prevent the development of new business models.
48. ACTA overprotects old business models.
49. ACTA imposes stronger restrictions on the trade in seeds which will threaten future biodiversity and further the corporate cartelisation of the food supply.
50. ACTA is not legally binding in the US while it will be in the EU if ratified

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