

## 10 MYTHS ABOUT ACTA (Anti-Counterfeiting Trade Agreement)

### **1. ACTA will limit the access to the internet and will censor websites.**

Read the [text of the ACTA Agreement](#) - there is no single paragraph in ACTA that substantiates this claim. ACTA is about tackling *large scale* illegal activity, often pursued by criminal organisations. It is not about how people use the internet in their everyday lives. Internet users can continue to share non-pirated material and information on the web. ACTA will not limit people's rights on the internet nor will it shut down websites, unlike the proposals discussed in the US (SOPA and PIPA).

### **2. ACTA will lead to controls of laptops of air passengers at borders and it will monitor internet traffic.**

The respect for fundamental rights such as privacy, freedom of expression and data protection is expressly mentioned as a basic principle of the agreement. ACTA even specifically mentions that travellers will be exempt from checks if any infringing goods are of a non-commercial nature and not part of large scale trafficking.

### **3. ACTA is a secret agreement. Negotiations were not transparent and conducted "behind closed doors". The European Parliament was not fully informed, stakeholders were not consulted.**

The text of ACTA is publicly available to all. The negotiations for ACTA were not different from negotiations on any other international agreement. It is a fact that such agreements are not negotiated in public, but with the Lisbon Agreement and the revised Framework Agreement there are clear rules on how the European Parliament (EP) should be informed of such trade negotiations. And these have been scrupulously followed. Trade Commissioner Karel De Gucht has participated in three plenary debates, replied to several dozens of written and oral questions, as well to two Resolutions and one Declaration of the EP, whilst Commission services have provided several dedicated briefings to Members of the European Parliament (MEPs) during the negotiations.

Likewise, the public was informed since the launch of the negotiations about the objectives and general thrust of the negotiations. The Commission released summary reports after every negotiation round and the negotiating text since April 2010. It organised press briefings and four stakeholder conferences on ACTA, one of them even only a few days before the first negotiating round. Our negotiating partners, for example the US, Switzerland, Australia and Canada, have taken similar steps.


### **4. ACTA will lead to the introduction of a '3 strikes' system for internet infringements, or to demands for internet service providers (ISPs) to monitor or filter the data they transmit.**

ACTA does not provide for a "3 strikes" or a "graduated response" system to infringements over the internet. Neither does it oblige Internet service providers (ISPs) to monitor or filter content of their users. ACTA is fully in line with the current EU law, in force since 2000 (E-commerce Directive), and does not change a single page of it.

### **5. ACTA will prevent poor countries from buying cheap medicines.**

There are no provisions in ACTA that could directly or indirectly affect the legitimate trade in generic medicines or, more broadly, global public health. On the contrary, ACTA





expressly refers to the Doha Declaration on intellectual property and public health. ACTA also excludes patents from criminal and border measures.

**6. ACTA favours IP right-holders. ACTA eliminates safeguards and exceptions existing under international law.**

Quite to the contrary, ACTA is drafted in very flexible terms and contains the necessary safeguards to allow the participating countries to strike an appropriate balance between all rights and interests involved, in line with their economic, political and social objectives, as well as with their legal traditions. All safeguards and exceptions under EU law or under the TRIPs Agreement remain fully preserved.

**7. ACTA's provisions on criminal enforcement of intellectual property rights require additional legislation at EU level.**

There is no EU legislation on criminal measures. The criminal enforcement provisions of ACTA do not require additional legislation at *EU level*. A very limited number of Member States may need to adapt their own legislation related to criminal enforcement to comply with the commitments they undertook (ACTA is a mixed EU/Member States' competence Agreement). This has been confirmed in very clear terms by two Opinions of the Legal Service of the European Parliament, of 5 October 2011 and of 8 December 2011, answering respectively to questions by the INTA and JURI Committees..

**8. ACTA leads to "harmonisation through the backdoor". A study ordered by the European Parliament's committee for International Trade (INTA) to academics says that ACTA will require changes to EU enforcement legislation and/or to national laws.**

ACTA provisions are compatible with existing EU law. ACTA will not require any revision or adaptation of EU law and will not require any Member States to review the measures or instruments by which they implement relevant EU law. ACTA is also in line with international law, in particular with the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). The INTA study does not show evidence of any concrete situation where ACTA would contradict, repeal or require the modification of a single provision existing in EU legislation. This has been confirmed in very clear terms by the two above mentioned Opinions of the Legal Service of the European Parliament. Find out more [here](#).

**9. ACTA was negotiated as a self-standing agreement to avoid being negotiated at an inclusive multilateral forum, such as the World Trade Organisation (WTO) or the World Intellectual Property Organisation (WIPO).**

The Commission would have preferred to address IPR enforcement problems in the WTO or in WIPO, and made many proposals to that effect. The point is that certain other Members of these organisations opposed any enforcement debate there. ACTA sets international IPR standards, and more countries are welcome to join this multilateral treaty.

**10. The EU will impose the provisions of ACTA to third countries through incorporation of its provisions in free trade agreements.**

There is no intention to do so, and this has not been proposed in bilateral trade negotiations conducted by the EU.

