



## PRESS RELEASE

### EUROPEAN ISPs FEAR THAT ACTA NEGOTIATIONS ARE SUBSTANTIALLY MODIFYING THE EU ACQUIS

EuroISPA, representing over 1700 European Internet Services Providers (ISPs), welcomes the efforts by the European Commission to finally introduce some transparency in relation to negotiations on the Anti-Counterfeiting Trade Agreement (ACTA) and the key role that the European Parliament played in that respect. However, this increased but incomplete transparency confirms the concerns raised so far by the ISPs industry. The text released still goes far beyond the existing implementation of the European regulatory framework regarding liability, introducing measures that will damage the industry sector via the creation of undue liability on ISPs and jeopardising the openness of the Internet.

EuroISPA points out that the agreement has not been changed in its substance and still proposes new obligations on the Internet industry while introducing criminal sanctions for the non commercial exploitation of IPR. These provisions, if adopted, would oblige the EU to implement even more restrictive legislation beyond the letter and spirit of the EU laws (acquis communautaire) at the expense of both the European Internet industry and consumers, and the global openness of the Internet.

Under normal circumstances, Internet intermediaries cannot be held liable when their services are misused by third parties. This core principle for the functioning of the Information Society was enacted in the 2000 Electronic Commerce Directive, setting the legal framework for ISP liability and preventing Member States from requiring ISPs to carry out surveillance of their services. ACTA negotiations are redrafting the acquis communautaire by increasing burdens for legitimate commerce. It creates a negative impact on innovation and, finally, undermines consumers' fundamental rights to privacy and free flow of information.

Malcolm Hutty, President of EuroISPA, argues that "EuroISPA acknowledges the Commission's commitment in partially complying with transparency obligation in the Lisbon Treaty. However, we believe that ACTA should not undermine the protections from liability for online intermediaries in the community acquis by subordinating them to other policy goals. This is a serious concern considering the crucial role played by the Internet for the development of the economic recovery, not only in the consumer space but also as an infrastructure underpinning business and employment".

In passing the Resolution on ACTA, the European Parliament sent a clear message to limit negotiations to the existing European IPR enforcement system against counterfeiting. EuroISPA calls on the Commission to comply with this position and to work in order to see it fully respected in ACTA, in line with the EU democratic decision-making.

**Background:** *The Anti-Counterfeiting Trade Agreement is being negotiated between the EU and a number of other countries including the United States, Mexico, Korea and Japan, ostensibly in order to tackle the trade of counterfeit goods and copyright infringements. The agreement suggests that, in order to avoid or limit liability, ISPs may have no alternative other than to monitor Internet traffic of consumers, a policy which has recently been considered disproportionate and unnecessary by the European Data Protection Supervisor (EDPS). EuroISPA has repeatedly remarked that such procedures are inappropriate in a democratic system, and in some case fall outside the corpus of EU laws (acquis communautaire), for example when criminal measures are proposed.*

**Note to Editors:** *EuroISPA is the world's largest association of Internet Service Providers (ISPs), representing the interests of over 1700 ISPs across Europe. With a Secretariat in Brussels, EuroISPA is a major voice of the Internet industry on information society subjects such as cybercrime, data protection, e-commerce regulation, EU telecommunications law and safe use of the Internet. Further information about the organisation (including its composition, aims and position papers) are available from its website: <http://www.euroispa.org>.*

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