

Questions of Senator Tom Coburn, M.D.
“Targeting Websites Dedicated to Stealing American Intellectual Property”
United States Senate Committee on the Judiciary
February 16, 2011

Internet Service Provider (ISP)

Responses of **Thomas M. Dailey**, Vice President and Deputy General Counsel, Verizon

1. *Does Verizon currently block any type of material by taking action to prevent a customer from arriving at his desired website (ex. child pornography)?*
 - a. *If yes, how is it different than what would be required under last year’s proposed legislation?*

Verizon Response:

Yes, with respect to its activities in the U.S., Verizon from time to time blocks access on a temporary basis to websites that are engaged in phishing, malware distribution or other network security-related activities. This is done to protect our network and our ability to provide services to our customers.

The difference between these network-security related activities and the proposed COICA requirements is not so much the specific technique itself—a domain name block is a valid and useful tool for temporarily addressing particular network security threats—but rather the fact that the scope and scale contemplated by COICA may require Verizon (and we assume other ISPs) to invest in different or additional technologies and/or to obtain new licenses to those technologies (which can be costly). In addition, the COICA processes around ongoing management of a dynamic list of blocked domain names are at this point undefined; the competitive and network impact of requiring fewer than all DNS providers to implement COICA blocks has yet to be examined; and the likelihood exists that some portion of U.S. consumers will be driven to offshore DNS providers, raising other complex issues related to security and network management.

The foregoing issues underscore the importance of ensuring that any blocking regime be narrowly tailored and used sparingly, that the legislation allow for cost recovery, and that the bill include language requiring the DoJ to develop appropriate procedures for implementing a blocking program in consultation with ISPs and other industry players.

2. *What would the **cost effect** be on Verizon should legislation such as last year’s bill be enacted? Do you believe the benefits outweigh the costs to Internet Service Providers (ISPs) in general?*

Verizon Response:

The cost effect on Verizon, and we expect any ISP, of last year’s legislation will vary depending on the number of DNS blocks ordered, the duration for which the blocks are in effect, and the narrowness of the domain names blocked (e.g., second level domains or resource records). Costs could be mitigated in part if the authority to bring suit were

limited to the Department of Justice, DNS blocking were limited to situations where it is the least burdensome remedy available, and proper procedures were implemented to ensure judicial orders are narrowly tailored and blocks immediately removed once no longer justified. This said, potentially significant costs associated with blocking would remain, and Verizon believes that, as is currently done elsewhere in federal law, those costs should be shared by content owners above a certain threshold (depending on the size of the ISP). While protecting the Internet from online actors who egregiously flaunt U.S. law carries a general benefit for all members of the Internet ecosystem, there is no specific benefit per se to ISPs. The “cost-benefit” analysis of COICA in terms of its impact on U.S. Internet policy is a closer question and one which requires further study and input from a broader segment of the Internet community, including the U.S. government.

3. *Do you believe it would be effective for the bill to **only** focus on eliminating the counterfeit websites’ ability to host ads and process payments prior to using the DNS blocking mechanism (i.e. not involve ISPs)? Why?*

Verizon believes that focusing on the hosting and financial infrastructure that supports rogue websites is the most effective way to combat online infringement, and that such targeted enforcement should be pursued before seeking any remedy that involves website blocking by an ISP. Unlike ISPs, payment companies and ad networks may have a financial relationship with the rogue website. Cutting off the ability to monetize the website through ads or the ability to process payments for the sale of goods or content will eliminate the incentives for and ability of the websites to continue to operate. By targeting these aspects first, the bill would target the problem in the narrowest possible manner and avoid the over-breadth issues that may arise from ISP blocking.

4. *The bill currently does not require search engines to block infringing websites from appearing in their search results. Do you believe search engines should be required to do so or otherwise act under any legislation? Why or why not?*

Verizon Response:

Verizon’s view on matters of Internet policy and regulation is that all participants in the Internet ecosystem should participate in efforts to further national interests where their involvement is reasonably necessary to achieving a public goal. If the DOJ blacklist is regularly updated and ISP DNS servers are as a result updated as well, one would expect that the results returned to search engines should not include websites included in the blacklist. However, search engine companies have different processes for updating their DNS information and ensuring that caches are not out of date. Because DNS requests can get resolved in ways other than through ISP-operated DNS servers, we have recommended consulting more widely with other industry players – including search engine providers – in considering this legislation

5. *What type of relationship, if any, does Verizon have with rights holders to pursue enforcement of those rights under current law?*

Verizon Response:

Verizon has been actively working with copyright holders to combat online infringement through efforts to notify Verizon customers of notices of alleged infringement submitted to Verizon by participating copyright holders. Under this program, Verizon informs affected customers that it has received notices of alleged copyright infringement from these rights holders. To protect the customer's privacy, at no time does Verizon provide the name of the customer to the rights holder (absent receipt of a valid subpoena or other legal process). In addition, Verizon's customer portal provides educational information about copyrights and infringement, FAQs regarding the notice forwarding program, and instructions on how to determine if peer-to-peer software is resident on a user's computer and ways to remove such software. We also provide instructions informing customers how to secure their wireless routers to help prevent third parties from accessing the customer's Internet connection.