

#### **Aaron Swartz**

Address at F2C: Freedom to Connect Conference

delivered 21 May 2012



AUTHENTICITY CERTIFIED: Text version below transcribed directly from audio

So, for me it all started with a phone call. It was September, not last year but the year before that -- September 2010 -- and I got a phone call from my friend, Peter.

"Aaron," he said, "there's an amazing bill that you have to take a look at."

"Well, what is it?" I said.

"It's called 'COICA' -- 'The 'Combating Online Infringement and Counterfeit Act.'"

"Peter," I said, "I don't care about copyright law. Maybe you're right. Maybe Hollywood is right. But either way, what's the big deal? I'm not gonna waste my life fighting over a little issue like copyright. Health Care, Financial Reform -- those are the issues that I work on, not something obscure like copyright law."

I could hear Peter grumbling in the background.

"Look, I don't have the time to argue with you," he said, "but it doesn't matter for right now because this isn't a bill about copyright."



"It's not?"

"No," he said. "It's a bill about the freedom to connect."

Now I was listening. Peter explained what you've all probably long since learned: that this bill would let the government devise a list of websites that Americans weren't allowed to visit. On the next day, I came up with lots of ways to try to explain this to people. I said it was a great firewall of America. I said it was an Internet blacklist. I said it was online censorship. But I think it's worth taking a step back, putting aside all the rhetoric, and just thinking for a moment about how radical this bill really was.

Sure, there are lots of times when the government makes rules about speech. If you slander a private figure, if you buy a television ad that lies to people, if you have a wild party that plays booming music all night: In all these cases, the government can come stop you. But this was something radically different. It wasn't that the government went to people and asked them to take down particular material that was illegal. It shut down whole websites. Essentially it stopped Americans from communicating entirely with certain groups.

There's nothing really like it in U.S. law. If you play loud music all night, the government doesn't slap you with an order requiring you be mute for the next couple weeks. They don't say nobody can make any more noise inside your house. There's a specific complaint, which they ask you to specifically remedy, and then your life goes on. The closet example I could find was a case where the government was at war with an adult bookstore. The place kept selling pornography, the government kept getting the porn declared illegal and then, frustrated, they decided to shut the whole bookstore down. But even that was eventually declared unconstitutional, a violation of the First Amendment.

So, you might say surely COICA would get declared unconstitutional as well. But I knew that the Supreme Court had a blind spot around the First Amendment -- more than anything else, more than slander or libel, more than pornography, more even than even child pornography. Their blind spot was copyright. When it came to copyright, it was like part of the justices' brains shut off and they just totally forgot about the First Amendment. You got the sense that deep down they didn't even think the First Amendment applied when copyright was at issue. Which means that if you did want to censor the Internet, if you wanted to come up with some way that the government could shut down access to particular websites, this bill might be the only way to do it. If it was about pornography, it probably would get overturned by courts just like the adult bookstore case. But if you claimed it was about copyright, it might just sneak through.



And that was especially terrifying because, as you know, copyright is everywhere. If you want to shut down WikiLeaks, it's a bit of stretch to claim that you're doing it because they have too much pornography. But it's not hard at all to claim that WikiLeaks is violating copyright, because everything is copyrighted. This speech, you know, the thing I am giving right now, these words are copyrighted. And it's so easy to accidently copy something. So easy, in fact, that the leading Republican supporter of COICA, Orrin Hatch, had illegally copied a bunch of code into his own Senate website. So if even Orrin Hatch's Senate website was found to be violating copyright law, what's the chance that they wouldn't find something they could pin on any of us.

There's a battle going on right now, a battle to define everything that happens on the Internet in terms of traditional things that the law understands. Is sharing a video on BitTorrent like shoplifting from a movie store, or is it like loaning a videotape to a friend? Is reloading a webpage over and over again like a peaceful virtual sit-in or a violent smashing of shop windows? Is the freedom to connect like freedom of speech or like the freedom to murder?

This bill would be a huge potentially permanent loss. If we lost the ability to communicate with each other over the Internet, it would be a change to the Bill of Rights, the freedoms guaranteed in our Constitution. The freedoms our country had been built on would be suddenly deleted. New technology, instead of bringing us greater freedom, would have snuffed out fundamental rights we'd always taken for granted. And I realized that day, talking to Peter, that I couldn't let that happen.

But it was going to happen. The bill, COICA, was introduced on September 20, 2010, a Monday. And in the press release heralding the introduction of this bill, way at the bottom, it was scheduled for a vote on September 23, just three days later. And while of course there had to be a vote -- you can't pass a bill without a vote -- the results of that vote were already a foregone conclusion. Because if you looked at the introduction of the law, it wasn't just introduced by one rogue eccentric member of Congress; it was introduced by the chair of the Judiciary Committee and co-sponsored by nearly all the other members, Republicans and Democrats. So yes, there'd be a vote but it wouldn't be much of a surprise because nearly everyone who was voting had signed their name to the bill before it was even introduced.

Now I can't stress how unusual this is -- this is emphatically not how Congress works. I'm --I'm not talking about how Congress should work, the way you see on Schoolhouse Rock. I mean, this is not the way Congress actually works. I mean, I think we all know Congress is a dead zone of deadlock and dysfunction. There are months of debates and horse-trading and hearings and stall tactics. I mean, you know, first you're supposed to announce that you're



gonna hold hearings on a problem and then days of experts talking about the issue and then you propose a possible solution, you bring the experts back for their thoughts on that. And then other members have different solutions and they propose those and you spend a bunch of time debating and there's a bunch of trading to get members over to your cause and finally you spend hours talking one-on-one with the different people in the debate, try and come back with some sort of compromise which you hash out in endless backroom meetings. And then when that's all done you take that and you go through it line by line in public to see if anyone has any objections or wants to make any changes and then you have the vote. It is a painful, arduous process. You don't just introduce a bill on Monday and then pass it unanimously a couple days later. That just doesn't happen in Congress.

But this time, it was going to happen. And it wasn't because there were no disagreements on the issue; there are always disagreements. Some senators thought the bill was much too weak and needed to be stronger. As it was introduced the bill only allowed the government to shut down websites and these senators, they wanted any company in the world to have the power to get a website shut down. Other senators thought it was a drop too strong. But somehow in the kind of thing you never see in Washington, they'd all managed to put their personal differences aside to come together and support one bill they were persuaded they could all live with – a bill that would censor the Internet. And when I saw this I realized whoever was behind this was good.

Now the typical way you make good things happen in Washington is you find a bunch of wealthy companies who agree with you. Social security didn't get passed because some brave politicians decided their good conscience couldn't possibly let old people die starving in the streets. I mean, are you kidding me? Social security got passed because John D. Rockefeller was sick of having to take money out of his profits to pay for his workers' pension funds. Why do that when you can just let the government take money from the workers? Now my point is not that social security is a bad thing -- I think it's fantastic. It's just that the way you get the government to do fantastic things is you find a big company willing to back them. The problem is, of course, that big companies aren't really huge fans of civil liberties. You know, it's -- it's not that they're against them; it's just that there's not much money in it.

Now if you've been reading the press you probably didn't hear this part of the story. As Hollywood has been telling it, the great, good copyright bill that they were pushing was stopped by the evil Internet companies who make millions of dollars off of copyright infringement. But it just -- it really wasn't true. I mean, I was in there, in the meetings with the Internet companies -- actually you're probably all here today. And, you know, if all their profits depended on copyright infringement, they would have put a lot more money into



changing copyright law. The fact is the big Internet companies, they would do just fine if this bill passed. I mean they wouldn't be thrilled about it but I doubt they would have even have a noticeable dip in their stock price.

So they were against it but they were against it like the rest of us on grounds primarily of principle; and principle doesn't have a lot of money in the budget to spend on lobbyists. So they were practical about it. "Look," they said, "this bill is going to pass; in fact it's probably gonna pass unanimously, and as much as we try, this is not a train we're going to be able to stop. So were not gonna support it. We couldn't support it, but in opposition, let's just try and make it better." So that was the strategy: Lobby to make the bill better. They had lists of changes that would make the bill less obnoxious or less expensive for them, or whatever. But the fact remained at the end of the day, it was going to be a bill that was gonna censor the Internet, and there was nothing we could do to stop it.

So I did what you always do when you're a little guy facing a terrible future with long odds and little hope of success: I started an online petition. I called all my friends, and we stayed up all night setting up a website for this new group, Demand Progress, with an online petition opposing this noxious bill, and I sent it to a few friends. Now, I've done a few online petitions before. I've worked at some of the biggest groups in the world that do online petitions. I've written a ton of them and read even more. But I've never seen anything like this. Starting from literally nothing, we went to 10,000 signers, then 100,000 signers, and then 200,000 signers and 300,000 signers, in just a couple of weeks. And it wasn't just signing a name. We asked those people to call Congress, to call urgently. There was a vote coming up this week, in just a couple days, and we had to stop it. And at the same time, we told the press about it, about this incredible online petition that was taking off. And we met with the staff of members of Congress and pleaded with them to withdraw their support for the bill. I mean, it was amazing. It was huge. The power of the Internet rose up in force against this bill. And then it passed unanimously.

Now, to be fair, several of the members gave nice speeches before casting their vote, and in their speeches they said their office had been overwhelmed with comments about the First Amendment concerns behind this bill, comments that had them very worried. So worried, in fact, they weren't sure that they still supported the bill. But even though they didn't support it, they were gonna vote for it anyway, they said, because they needed to keep the process moving, and they were sure any problems that were had with it could be fixed later. So, I'm gonna ask you, does this sound like Washington, D.C., to you? Since when do members of Congress vote for things that they oppose just to keep the process moving? I mean, whoever was behind this was good.



And then, suddenly, the process stopped. Senator Ron Wyden, the Democrat from Oregon, put a hold on the bill. Giving a speech in which he called it a nuclear bunker-buster bomb aimed at the Internet, he announced he would not allow it to pass without changes. And as you may know, a single senator can't actually stop a bill by themselves, but they can delay it. By objecting to a bill, they can demand Congress spend a bunch of time debating it before getting it passed. And Senator Wyden did. He bought us time -- a lot of time, as it turned out. His delay held all the way through the end of that session of Congress, so that when the bill came back, it had to start all over again. And since they were starting all over again, they figured, why not give it a new name? And that's when it began being called PIPA, and eventually SOPA.

So there was probably a year or two of delay there. And in retrospect, we used that time to lay the groundwork for what came later. But that's not what it felt like at the time. At the time, it felt like we were going around telling people that these bills were awful, and in return, they told us that they thought we were crazy. I mean, we were kids wandering around waving our arms about how the government was gonna censor the Internet. It does sound a little crazy. You can ask Larry tomorrow. I was constantly telling him what was going on, trying to get him involved, and I'm pretty sure he just thought I was exaggerating. Even I began to doubt myself. It -- It was a rough period. But when the bill came back and started moving again, suddenly all the work we had done started coming together. All the folks we talked to about it suddenly began getting really involved and getting others involved. Everything started snowballing. It happened so fast.

I -- I remember there was one week where I was having dinner with a friend in the technology industry, and he asked what I worked on, and I told him about this bill. And he said, "Wow! You need to tell people about that." And I -- I just groaned. And then, just a few weeks later, I remember I was chatting with this cute girl on the subway, and she wasn't in technology at all, but when she heard that I was, she turned to me very seriously and said, "You know, we have to stop 'SOAP.'" So, progress, right?

But, I think that story illustrates what happened during those couple weeks, because the reason we won wasn't because I was working on it or Reddit was working on it or Google was working on it or Tumblr or any other particular person. It was because there was this enormous mental shift in our industry. Everyone was thinking of ways they could help, often really clever, ingenious ways. People made videos. They made infographics. They started PACs. They designed ads. They bought billboards. They wrote news stories. They held meetings. Everybody saw it as their responsibility to help. I remember at one point during this period I held a meeting with a bunch of startups in New York, trying to encourage everyone to



get involved, and I felt a bit like I was hosting one of these Clinton Global Initiative meetings, where I got to turn to every startup in the -- every startup founder in the room and be like, "What are you going to do?" "And what are you going to do?" And everyone was trying to one-up each other.

If there was one day the shift crystallized, I think it was the day of the hearings on SOPA in the House, the day we got that phrase, "It's no longer OK not to understand how the Internet works." There was just something about watching those clueless members of Congress debate the bill, watching them insist they could regulate the Internet and a bunch of nerds couldn't possibly stop them. They really brought it home for people that this was happening, that Congress was going to break the Internet, and it just didn't care.

I remember when this moment first hit me. I was at an event, and I was talking, and I got introduced to a U.S. senator, one of the strongest proponents of the original COICA bill, in fact. And I asked him why, despite being such a progressive, despite giving a speech in favor of civil liberties, why he was supporting a bill that would censor the Internet. And, you know, that typical politician smile he had suddenly faded from his face, and his eyes started burning this fiery red. And he started shouting at me, said, "Those people on the Internet, they think they can get away with anything! They think they can just put anything up there, and there's nothing we can do to stop them! They put up everything! They -- They put up our nuclear missiles, and they just laugh at us! Well, we're gonna show them! There's got to be laws on the Internet! It's got to be under control!"

Now, as far as I know, nobody has ever put up the U.S.'s nuclear missiles on the Internet. I mean, it's not something I've heard about. But that's sort of the point. He wasn't having a rational concern, right? It was this irrational fear that things were out of control. Here was this man, a United States senator, and those people on the Internet, they were just mocking him. They had to be brought under control. Things had to be under control. And I think that was the attitude of Congress. And just as seeing that fire in that senator's eyes scared me, I think those hearings scared a lot of people. They saw this wasn't the attitude of a thoughtful government trying to resolve trade-offs in order to best represent its citizens. This was more like the attitude of a tyrant. And so the citizens fought back.

The wheels came off the bus pretty quickly after that hearing. First the Republican senators pulled out, and then the White House issued a statement opposing the bill, and then the Democrats, left all alone out there, announced they were putting the bill on hold so they could have a few further discussions before the official vote. And that was when, as hard as it was for me to believe, after all this, we had won. The thing that everyone said was impossible,



that some of the biggest companies in the world had written off as kind of a pipe dream, had happened. We did it. We won.

And then we started rubbing it in. You all know what happened next. Wikipedia went black. Reddit went black. Craigslist went black. The phone lines on Capitol Hill flat-out melted. Members of Congress started rushing to issue statements retracting their support for the bill that they were promoting just a couple days ago. And it was just ridiculous. I mean, there's a chart from the time that captures it pretty well. It says something like "January 14th" on one side and has this big, long list of names supporting the bill, and then just a few lonely people opposing it; and on the other side, it says "January 15th," and now it's totally reversed -- everyone is opposing it, just a few lonely names still hanging on in support.

I mean, this really was unprecedented. Don't take my word for it, but ask former Senator Chris Dodd, now the chief lobbyist for Hollywood. He admitted, after he lost, that he had masterminded the whole evil plan. And he told *The New York Times* he had never seen anything like it during his many years in Congress. And everyone I've spoken to agrees. The people rose up, and they caused a sea change in Washington -- not the press, which refused to cover the story -- just coincidentally, their parent companies all happened to be lobbying for the bill; not the politicians, who were pretty much unanimously in favor of it; and not the companies, who had all but given up trying to stop it and decided it was inevitable.

It was really stopped by the people, the people themselves. They killed the bill dead, so dead that when members of Congress propose something now that even touches the Internet, they have to give a long speech beforehand about how it is definitely not like SOPA; so dead that when you ask Congressional staffers about it, they groan and shake their heads like it's all a bad dream they're trying really hard to forget; so dead that it's kind of hard to believe this story, hard to remember how close it all came to actually passing, hard to remember how this could have gone any other way. But it wasn't a dream or a nightmare; it was all very real.

And it will happen again. Sure, it will have yet another name, and maybe a different excuse, and probably do its damage in a different way. But make no mistake: The enemies of the freedom to connect have not disappeared. The fire in those politicians' eyes hasn't been put out. There are a lot of people, a lot of powerful people, who want to clamp down on the Internet. And to be honest, there aren't a whole lot who have a vested interest in protecting it from all of that. Even some of the biggest companies, some of the biggest Internet companies, to put it frankly, would benefit from a world in which their little competitors could get censored. We can't let that happen.



Now, I've told this as a personal story, partly because I think big stories like this one are just more interesting at human scale. The director J.D. Walsh says good stories should be like the poster for Transformers. There's a huge evil robot on the left side of the poster and a huge, big army on the right side of the poster. And in the middle, at the bottom, there's just a small family trapped in the middle. Big stories need human stakes.

But mostly, it's a personal story, because I didn't have time to research any of the other part of it. But that's kind of the point. We won this fight because everyone made themselves the hero of their own story. Everyone took it as their job to save this crucial freedom. They threw themselves into it. They did whatever they could think of to do. They didn't stop to ask anyone for permission. You remember how Hacker News readers spontaneously organized this boycott of GoDaddy over their support of SOPA? Nobody told them they could do that. A few people even thought it was a bad idea. It didn't matter.

The senators were right: The Internet really is out of control. But if we forget that, if we let Hollywood rewrite the story so it was just big company Google who stopped the bill, if we let them persuade us we didn't actually make a difference, if we start seeing it as someone else's responsibility to do this work and it's our job just to go home and pop some popcorn and curl up on the couch to watch Transformers, well, then next time they might just win.

Let's not let that happen.