

The Open Internet Fights Back

by [David Sohn](#) [1], [Mark Stanley](#) [2]
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[UPDATES BELOW](#)

Major developments have been coming fast and furious in the battle over PIPA and SOPA, the [highly controversial](#) [3] online piracy legislation that proponents have been trying to hurry through Congress. Senate Majority Leader Harry Reid (D-NV) still says he wants to bring PIPA up for a vote on the Senate floor next week. But with the White House now joining the online community in urging caution, it should be clear that it's time for both the Senate and the House to step back and reconsider some fundamental issues. Let's review what has transpired in the past week.

For a number of weeks now, opposition to the bills has been spreading like wildfire on the Internet, with major social media websites and communities spreading the word and thousands upon thousands of Internet users contacting their elected representatives. It has been a historic mobilization.

On Saturday, the White House officially weighed in. In an [official response](#) [4] to two anti-SOPA petitions hosted on [Whitehouse.org](#), each of which received over 50,000 signatures, the Administration stated that it would oppose any IP legislation that risks online censorship of lawful activity, inhibits innovation, or creates new cybersecurity risks. It warned that DNS filtering provisions, featured in both SOPA and PIPA, "pose a real risk to cybersecurity and yet leave contraband goods and services accessible online." It offered important principles for legislation in this area, such as being "narrowly targeted only at sites beyond the reach of current U.S. law" and "prevent[ing] overly broad private rights of action." And it called for additional online discussion and public input concerning how best to proceed.

Meanwhile, in the House, Judiciary Chairman and SOPA author Lamar Smith (R-TX) [announced](#) [5] that he would drop DNS-filtering from SOPA. And Rep. Darrell Issa (R-CA), who along with Sen. Ron Wyden (D-OR) coauthored the [OPEN Act](#) [6] as a more sensible alternative to PIPA and SOPA, [announced](#) [7] he would postpone a scheduled hearing examining problems with SOPA after receiving assurance from House Majority Leader Eric Cantor (R-VA) that SOPA would not move to the floor without the House first addressing outstanding issues and building a more consensus-based approach. "The voice of the Internet community has been heard," noted Issa.

In the Senate, PIPA author and Senate Judiciary Chairman Patrick Leahy (D-VT) released a [statement](#) [8] proposing the bill's cosponsors amend PIPA so the effects of DNS-blocking could be studied before it is implemented. But even as he did so, six Republican Senators—Chuck Grassley (IA), Orrin Hatch (UT), Jeff Sessions (AL), John Cornyn (TX), Mike Lee (UT), and Tom Coburn (OK)—[wrote a letter](#) [9] to Reid requesting he delay his attempt to move PIPA to a Senate floor vote. Grassley and Hatch are listed among the bill's 40 cosponsors. Sen. Pat Toomey (R-PA) went [on record saying](#) [10] he is unlikely to support PIPA as it now stands. And Sen. Mark Udall (R-CO) [declared](#) [11] he would oppose the passage of PIPA if it were not improved, as [did](#) [12] Sen. Ben Cardin (D-MD).

In short, it should be clear that the ground has shifted. Serious concerns have been raised about PIPA and SOPA. Those concerns can no longer be dismissed. It's time to take a step back. Legislation may well be possible, as the White House statement suggests, but it needs to start with a fresh look.

Nonetheless, Reid has said he will attempt to move PIPA to a floor vote on January 24th. To do this, he needs 60 votes; if he succeeds, PIPA will almost certainly receive the 51 votes on the floor it needs to pass. (For more on this legislative process, read this [post](#) [13] from Public Knowledge.) It should be noted that on *Meet the Press* this Sunday, Reid said he expected a manager's amendment that would make some changes to the bill, but at this stage it is unknown exactly what changes would be made.

This Week - "Going Dark"

The concerns that have been expressed are too serious to try to address on the fly in a hurried manager's amendment, without the benefit of any further hearings or the kind of input the White House statement suggests.

In an effort to pressure the Senate to postpone its premature action—and to protest the slanted process by which PIPA and SOPA have advanced through Congress—CDT and a [host of major websites](#) [14] are planning to "go dark" on January 18th. This extraordinary event, which was [kicked off by Reddit](#) [15] and will include [Wikipedia](#) [16] among its participants, is a rallying cry. Momentum is on our side; *the next step is applying pressure on the Senate to ensure that on January 24th PIPA, as it currently stands, does not move to a Senate floor vote.*

In the long fight to try to preserve the open Internet and resist calls to compel online intermediaries to police their content and suppress free expression—a fight that preceded PIPA and SOPA and will continue far into the future—politicians and content companies may one day look back on this as the moment the open Internet woke up and decided to fight back. The implications are clear: Anyone who attempts to stifle the open Internet must contend with [the](#) [17] [millions](#) [18] of Internet users prepared to defend it.

But *this* particular fight is not yet over. Everyone who cares about the future of the Internet must keep the pressure up and [let the Senate know](#) [19], before January 24th, that they oppose PIPA.

UPDATE I -- January 17th

CNET [reports](#) [20] that Google will throw its weight behind the day of protest tomorrow by posting a link on its home page to notify users of the company's opposition to PIPA and SOPA.

And we can [now add](#) [21] Sen. Scott Brown (R-MA) to the growing group of Senators who've said they will vote "No" on PIPA as it currently stands.

UPDATE II

Smith [announced](#) [22] today that the markup of SOPA, which was delayed last month, will resume in February.

UPDATE III

Sen. Robert Menendez (D-NJ) [said](#) [23] in a tweet that he is "working to ensure critical changes are made to [PIPA]."

UPDATE IV -- January 18th

Four more Senators have come out today against PIPA, as it currently stands. On Facebook, Sen. Marco Rubio (R-FL) [posted](#) [24] that he was withdrawing his cosponsorship of the bill.

Sen. Jim DeMint (R-SC) [announced](#) [25] on Twitter that he opposes PIPA.

In a [press release](#) [26], Sen. Mark Kirk (R-IL) stated, "I stand with those who stand for freedom and oppose PROTECT IP, S.968, in its current form."

Sen. Roy Blunt (R-MO) announced the [following](#) [27] on Facebook: "Senate Leader Harry Reid is pushing forward with legislation that is deeply flawed and still needs much work. That is why I'm withdrawing my co-sponsorship for the Protect IP Act."

UPDATE V

Sen. Jeff Merkley (D-OR) [tweeted](#) [28] the following: "Thanks for all the calls, emails, and tweets. I

will be opposing #SOPA and #PIPA. We can't endanger an open internet."

UPDATE VI

Sen. John Boozman (R-AR) [just posted](#) [29] a statement on Facebook: "I am announcing today that I intend to withdraw my support for the Protect IP Act."

Boozman was a cosponsor.

UPDATE VII

The Hill [reports](#) [30] that Hatch is the latest to drop his cosponsorship of the bill. The Senator says he will also vote against moving it to a floor vote on January 24th.

UPDATE VIII -- January 19th

For the latest developments in the Senate, visit [OpenCongress](#) [31], where we are helping to keep a detailed whip count.

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