



PES Declaration on the Anti-Counterfeiting Trade Agreement (ACTA) Adopted by the PES Presidency of 9 February 2012

The Party of European Socialists considers the Anti-Counterfeiting Trade Agreement (ACTA) to be fundamentally flawed in both content and process. There is a severe imbalance between the rights attributed to the users, service providers and rights holders.

The agreement, which is to be voted on by the European Parliament before summer 2012 and ratified by National Parliaments, is flawed in content for the following reasons; it gives undue power of oversight to internet providers; it infringes the privacy of internet users; and it will curtail developing countries access to generic medicines.

It is flawed in process because of the secret manner in which the accord was agreed upon, and because of the significantly reduced time afforded to the European Parliament to scrutinise the final draft.

The PES condemns the secretive manner in which this Agreement was negotiated by the European Commission and the other negotiating partners. Negotiations of agreements should not be conducted behind closed doors, and the European Parliament and public must, by right, be made privy to the on-going negotiations on a regular basis. This is the only way to ensure full transparency and public consultation.

Despite the fact that ACTA will have a very real effect on the lives of European citizens, they were not privy to the negotiations and their contents. The largest source of information to the public was through leaked documents on websites such as Wikileaks. The first official draft text was only released following eight rounds of negotiations and two years of official negotiations.

The PES continues to believe that there is a need for legislation on intellectual property rights in order to protect rights holders and encourage creativity and entrepreneurship. However, ACTA is not a reasonable solution to this need and risks to contravene the fundamental rights of European citizens.

Background:

The aim of the Agreement is to establish an international agreement for the protection of intellectual property rights. In the preamble to the legislation the goals are laid out to combat the proliferation of counterfeit and pirated goods, as well as of services that distribute infringing material by:

- Providing effective and appropriate means for the enforcement of intellectual property rights, while trying to ensure that these measures do not become barriers to legitimate trade;
- Addressing the problem of infringement of intellectual property rights, including infringement taking place in the digital environment, in a manner that balances the rights and interests of the relevant right holders, service providers and users;
- Promoting cooperation between service providers and right holders to address relevant infringements in the digital environment.

