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Anti-Piracy Law Is Good, Tech Makes It Better

By Elizabeth Bagot

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When I moved to Russia, I was astonished by the pervasiveness of Internet piracy. Movies, music, software, books — everything was at my fingertips, free of charge and in the language of my choice. When my Russian friends learned that I pay for a Netflix account, they burst out laughing. Why, they asked, would I pay for something that is available for free?

During my time in Russia, I have come to the realization that digital content theft is symptomatic of an underlying belief: free access to information is a fundamental right. This belief is a deep-seated reality in Russia. It goes a long way towards explaining the widespread resistance to Russia's new anti-piracy law.

Russia's WTO accession in 2012 was a resounding signal to the global community that it is prepared to adopt and adhere to international standards. Ingrained social beliefs notwithstanding, it was only a matter of time before the seeds of legalization take root. Federal Law No. 187-FZ aims to do just that by holding information intermediaries accountable for the dissemination of pirated video.

Based on the results thus far, I would argue that the law is a step in the right direction; a step that will need some adjustment along the way, but a positive step nonetheless.

To prove my point, let's look at the before and after of 187-FZ.

Of the 6,000 websites that contain Russian content only seven serve as legal media channels. That is, a mere 0.12% of the digital content downloaded by Russian-speaking audiences is legal.

Industry experts estimate that digital piracy causes over $4 billion in damages to media producers, foreign and Russian alike, every year. The U.S. Trade Representative and International Intellectual Property Alliance have repeatedly singled Russia out for its critical level of piracy. What's worse, legal channels are largely unknown. Most Russians would be hard pressed to name a single legal video site.

Internet resources that offer pirated content profit immensely from stolen intellectual property through ad placements. In a recent study, WebKontrol, which acts on behalf of Hollywood and Russian copyright holders to get unauthorized video removed at an early stage without resorting to the legal means, found that in Russia, music piracy generates about $22 million per year in illegal ad revenue.

Because 187-FZ is so new, its long-term effects have yet to be felt. However, several developments are already clear.

First, the mere existence of the law has prompted websites to respond rapidly to takedown requests in order to avoid litigation. Compliance rates for removing illegal videos since 187-FZ entered into force have already been noticeably higher.

The law's opponents have decried it for threatening Internet freedom. Labeling it as a Russian version of the unpopular U.S. Stop Online Piracy Act, they have dreamt up terrifying scenarios, ranging from the mass shutdown of thousands of websites to a complete Internet blackout. It can be tempting to entertain such apocalyptic predictions.

However — and this leads me to the second development — it is empirically false that this law is killing the Internet. To date, 56 copyright owners have requested preliminary injunctions against 41 offending websites. Most of the websites have responded, removing the disputed content immediately. Only two websites — rutor.org and turbofilm.tv — have been blocked, but they are making efforts to rectify their situations. Two other sites — seasonvar.ru and smotruonline.ru — were left unblocked by courts after the copyright holder failed to follow up with a formal notice of claim. These numbers are a far cry from the thousands of blockages predicted by dissenters.

Third, 187-FZ provides growth opportunities for legitimate businesses. Investor interest in the Russian market is high, and that interest will continue to rise as market risk declines. Amazon and Hulu, emboldened by the accountability the new law provides, are expected to make their debut in Russia in the near future.

The law also incentivizes Russian legal channels to attract more investment, expand their scale with a reasonable expectation of a return, offer a wider variety of content, and thereby

boost revenues.

Legal distributors offer higher quality content and a better customer experience. Both sides win.

Fourth, the law helps redirect revenues away from pirates back to legitimate content owners. Before 187-FZ took effect, content creators were being elbowed out of this rapidly growing market — a market that could and should resemble the one that has met with such success in the U.S. and Europe. It's only fair to ensure that the profit gets into the hands of those who actually invested time, money and energy in creating content.

At a conference I attended in September, one of the law's authors stressed that the goal is not to over-govern, but to promote self-governance, with legal tools available as a last resort. State-of-the-art automatic content recognition technology has already made major strides in that direction by allowing video hosting sites to prevent illegal content from being uploaded in the first place.

If all the largest video hosting services were to install automatic content recognition, they could keep their pages free of pirated video and completely avoid the threat of shutdown.

YouTube is one of the major companies to have understood early on that the only way to avoid legal action is to prevent piracy. Many say this is not possible, but it is. YouTube recently installed its own automatic content recognition system — Content ID — and it works.

As a U.S. citizen raised on the precepts of "Internet freedom," on the one hand, and "intellectual property protection," on the other, I know there is a fine line to tread between maintaining an open Internet and rewarding creativity. I understand the fears of 187-FZ plunging down the slippery slope of Internet censorship.

However, my meetings with lawmakers and conversations with content creators have made me confident that this will not happen. I have faith in the new law, the opportunities it will open for legitimate businesses and the possibilities it will introduce for Internet audiences. Enforced in conjunction with automatic content recognition technology, this law could turn out to be a blessing for all parties involved.

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