ACTA: MEPs want clarity before taking a decision
Committees: Committee on International Trade

International Trade Committee MEPs from all political groups want to know more about how the Anti-Counterfeiting Trade Agreement (ACTA) would be enforced before advising Parliament as a whole on whether or not to approve it, it emerged from the committee's first debate on it on Thursday. David Martin (S&D, UK), who will draft the committee's recommendation, asked it to back his plan to refer ACTA to the European Court of Justice, for a ruling on questions to be prepared by Parliament.

Mr Martin suggested that while the Court of Justice referral is being prepared, the time set aside for Parliament's assent to ACTA should instead be used to prepare an interim report setting out questions to the European Commission and EU Member States on how it is to be enforced. He stressed that Parliament should prepare its own questions, rather than simply associating itself with the European Commission's parallel referral of ACTA to the court.

Examples could include questions about how border control agencies would be expected to deal with counterfeit imports, or whether internet service providers would have to enforce ACTA against users, and if so what legislation would require them to do so.

Protecting intellectual property rights

"We have critical interest in defending EU intellectual property and we need to act in this regard", said Mr Martin, stressing that "it is not the intentions of ACTA that raise concerns but its possible unintentional consequences. ACTA lacks detail. The main concern is how the text might be read".

For example, "There is no 'three strikes' rule in ACTA, but we do not know how internet service providers will interpret the tasks given to them and if they will feel that they have the duty to cut people off the internet".

"What I plan to do is bring about clarity on ACTA in the next year, to provide the facts for this Parliament to vote", Mr Martin declared, adding that in the coming weeks he planned to meet as many civil society representatives as possible to discuss citizens' concerns while drafting his interim report.

Not just a trade deal

The EPP group's shadow rapporteur on ACTA, Christofer Fjellner (SE) agreed that Parliament must now scrutinize the ACTA text in detail. "It's not the trade deal that changes citizens' everyday lives but the legislation that enforces it", he told Trade Commissioner Karel De Gucht, adding "I've heard from the Commission and Member States that there will not be a big change in legislation. I will not take your word for it. We need to scrutinize it".

Mr Martin's position was also welcomed also by Parliament's former rapporteur on ACTA, Kader Arif, who had resigned accusing Parliament of orchestrating a "masquerade" on the ACTA case. "Today I am very happy to see my colleagues thinking differently, Parliament's transparency, openness to public and the direction the ACTA case is taking in Parliament", he said.
Robert Sturdy (ECR, UK) backed the European Commission’s decision to refer ACTA to the European Court of Justice.

**ACTA lacks transparency**

Mr Martin and other speakers objected to the "lack of transparency" in the ACTA negotiations to date and reiterated Parliament's many requests to be more closely involved, and not merely left with the option of accepting or rejecting the existing text.

French Green Yannick Jadot complained that "procedural excuses" had been used to avoid involving Parliament, and noted that MEPs had learned of the Commission decision to refer ACTA to the Court of Justice from the press, "I'm not sure that this is in line with our inter-institutional agreement with the Commission", he said.

Swedish Green Carl Schlyter complained that emerging economies were not involved in ACTA negotiations, noting that 95% of all counterfeiting takes place in countries that will not be affected by ACTA. He also observed that if the aim now was to spread ACTA via bilateral agreements with countries not yet party to it, this would not be a democratic way to influence other countries.

Helmut Scholz (GUE/NGL, DE), also noted that the countries where most piracy takes place are outside ACTA and insisted that it should be tackled through existing international structures instead. "Globalization raises different challenges and ACTA is the wrong way to handle things", he said.

**Civil society protests**

Several MEPs said the Commission must accept its share of responsibility for civil society protests against ACT, since it had not kept people properly informed of the progress of negotiations. "The lack of transparency has created a lot of mistrust. This might be a lesson to the future. We need to change things", said Mr Fjellner.

Metin Kazak (ALDE, BG), said that in many Member States, these protests had prompted governments to "give up". "Both in the ACTA text and also in communication about it there are many cumbersome words and phrases - that something will perhaps happen or may happen. In such circumstances you have to expect citizens to be afraid from the possible consequences", he said.

Inese Vaidere (EPP, LV), said the Commission had done too little to explain ACTA's benefits, even though there was much to be explained, such as the definitions of terms "counterfeiting" or "commercial scale". "Now it may already be too late. I fear that we don't have much chance of reviving ACTA. The Commission has not done its job", she said.

Committee chair Vital Moreira (S&D, PT), defended ACTA on the grounds that intellectual property rights are vital to Europe's ability to innovate and compete. He was sure that properly interpreted, ACTA would not threaten fundamental freedoms.

**No ACTA enforcement without Parliament’s consent**

Commissioner De Gucht replied that any substantive laws passed to enforce ACTA would be the responsibility of Parliament and Member States.

"ACTA cannot be changed into substantive law without Parliament's consent. You are also responsible for that" he said, suggesting that Parliament should pay more attention to Member States' laws that threaten fundamental freedoms.

"The so called 'three strikes' rule is effective in French law and that is a law that was passed to implement EU directives. On the contrary, ACTA explicitly states that you can not impose anything similar to three-strikes rule on the international level!", he said.

Commissioner De Gucht reiterated his view that referring ACTA to the European Court of Justice would be the right decision, as "our responsibility as politicians is to establish the facts and not follow the crowd" and the "Court will provide much needed clarity on our concerns".
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