

## Where Did I Put Those "Freedom Fries?"

November 28, 2007

I have nothing against the French. I never ordered "Freedom Fries" with my hamburger; the French Foreign Legion helped fuel my adolescent fantasies of adventure and wanderlust; and much later Brigitte Bardot helped fuel my... well, you get my drift. But I admit to being peeved at them for the hubris contained in the [recent announcement](#) [1] of a three-way pact among the French government, Internet Service Providers, and the entertainment industry to try and crack down on illegal file sharing. The agreement puts ISPs at the forefront of a scheme requiring the companies to monitor each citizen's online activity on the chance that illegal file sharing might be happening, an act that instantly turns ISPs into a de facto cyber-police force.

The ISPs will send reports of alleged illegal activity to an "independent body" for review. If the review finds illegal file sharing activity, it will issue a warning to the user. If the activity persists, this independent body has the authority to cut off a user's Internet access. No, I'm not making this up. Although this new authority is supposed to operate with "judicial oversight," its deliberations and meted out punishments are clearly done on an extrajudicial basis. French President Nicolas Sarkozy praised the agreement, saying that France was on the brink of "a genuine destruction of culture," and that aggressive action must be taken in an effort to keep the Internet from becoming "a lawless zone where outlaws can pillage [artistic] works with abandon or, worse, trade them with total impunity."

This guy's country is wracked with labor unrest and suburban riots and he's aiming a fire hose at Peer-to-Peer networking. Go figure. There are so many red flags and potential avenues for abuse built into this scheme that it's hard to pick an area to attack first. The fact that so many of the plan's details remain a mystery doesn't help matters. There are many more questions than answers:

- Do accused users have any recourse for a defense of the charges?
- Is participation in this new program mandatory for all ISPs?
- Who determines how much cost and effort ISPs must incur to monitor Internet traffic flows for possible piracy?
- Who determines what filtering technologies are adequate, and what ISPs need to do to keep abreast of changing filtering technology?
- Are there any safeguards to protect against privacy invasions?
- What if the filters make mistakes? In particular, what if filters are overinclusive? Are there any safeguards to protect against the blocking of legitimate expression?
- How is access actually blocked? Can one person's illegal activity cut off all access for a particular household?

As for the hue and cry of opposition to this twisted plan, there's been slim to none. The ISPs have been silent; whether they raised private objections as the deal was being cut isn't known. A Reuters news story reported that the French consumer group UFC Que Choisir put out a statement decrying the deal as "very tough, potentially destructive of freedom, anti-economic and against digital history," while arguing that tough anti-piracy penalties are already in place. There could be a small silver lining here; this egregious plan could jump start the wholehearted use of encryption technologies. If the majority of Internet traffic were encrypted, where does that leave the French? If the answer is to try and regulate the use of encryption, well... let's just say I'd advocate a much stronger course of action other than returning to ordering "freedom fries."



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