



DOJ Wants to Criminalize Uploading of YouTube Videos

The erosion of our freedoms continues as the Department of Justice is criminalizing activities that it deems may be detrimental to public security. Among those activities are “lying on the Internet” and “uploading videos that break YouTube’s terms of service,” as well as any other action determined to “contravene a website’s usage policy.”



“In a statement obtained by CNET that’s scheduled to be delivered tomorrow, the Justice Department argues that it must be able to prosecute violations of Web sites’ often-ignored, always-unintelligible “terms of service” policies,” [writes Declan McCullagh](#).



The DOJ has expanded its Computer Fraud and Abuse Act (CFAA) to indicate that an agreement with a website’s terms of service would be identical to signing a contract with an employer, and as such, any such violation should provoke the same sort of punishment.

Passed by Congress in 1986, CFAA was originally intended to stop hackers from breaking into computer systems and to address all federal computer-related offenses. The Department of Justice now seeks to greatly expand the use of CFAA to target a number of different “violations.”

These violations include such innocuous items as creating a fake Facebook profile, lying about one’s age on a dating website, or providing any such false information online that is in violation of a site’s terms of use agreement.

“To the Justice Department, this means that a Web site’s terms of service define what’s ‘authorized’ or not, and ignoring them can turn you into a felon,” explains McCullagh.

In the case of YouTube, for example, you may be informed months, even years, later if you have infringed upon the company’s terms of service agreement if another user simply complains about the content of your video.

Attorney Stewart Baker warns about the potential effects of the new law, indicating that if a user, for example, uploads a copyrighted video on YouTube more than once, they would fall under the category of “a pattern or racketeering” and as a result would face even harsher penalties, “at least if Justice gets its way.”

A number of free speech organizations like the American Civil Liberties Union and FreedomWorks have joined together to combat the DOJ’s efforts, submitting a letter to the Senate that states:

If a person assumes a fictitious identity at a party, there is no federal crime. Yet if they assume that same identity on a social network that prohibits pseudonyms, there may again be a CFAA violation. This is a gross misuse of the law.



Written by [Raven Clabough](#) on November 17, 2011

This is not the first time we have seen the federal government turn their attention to the Internet as an opportunity to provide security.

Senator Joe Lieberman attempted to [pass](#) legislation that mandates that Internet anonymity be outlawed and that individual IDs for Internet users be implemented. Lieberman apparently thinks that the United States should emulate the regulatory power found in communist China, stating on CNN: "Right now China, the government, can disconnect parts of its Internet in case of war and we need to have that here too." He has moved to shutdown websites like Amazon and Wikileaks without a court order.

Likewise, the United States House of Representatives recently introduced a ["rogue websites" bill](#) that has attracted bipartisan support because it forces Internet Service Providers to create a list of banned websites and prevent users of those websites from accessing their sites. The list of websites is similar to the "ban lists" found in China. Entitled the Stop Piracy Act, the bill reads:

"A service provider shall take technically feasible and reasonable measures designed to prevent access by its subscribers located within the United States to the foreign infringing site (or portion thereof) that is subject to the order, including measures designed to prevent the domain name of the foreign infringing site (or portion thereof) from resolving to that domain name's Internet Protocol address."

While the touted focus of the bill is on foreign websites, it may just as easily be applied to all .com domains.

The very language of the bill indicates it is trying to empower the federal government to ban websites.

"Internet Service Providers would face new and open-ended obligations to monitor and police user behavior," the Center for Democracy and Technology said. "Payment processors and ad networks would be required to cut off business with any website that rightsholders allege hasn't done enough to police infringement."

The government has already taken the authority to demand that websites remove information and videos that contain too much "government criticism." Google admits that there has been a 70 percent increase in the number of requests by the federal government to takedown certain information.

"In the US, Google received 757 takedown requests across its sites and services, up 70 per cent from the second half of last year," [reports technology website V3.co.uk](#). "US authorities also called for the removal of 113 videos from YouTube, including several documenting alleged police brutality which Google refused to take down."

In Google's newly released transparency report, it reveals that the number of "user data requests" by United States authorities has increased by 29 percent over the course of the last reporting period. In the case of the removal of a YouTube video, for example, the reason listed was "government criticism," and no content for the video was indicated or explained. Other videos that pertain to police brutality have been ordered to be taken down on the grounds of defamation.

As YouTube has already been on the federal government's radar, it seemed only a matter of time before the government found a reason to criminalize the uploading of YouTube videos.



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