

EU court rules against web filters to block file sharing

November 24 2011



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Internet service providers cannot be forced to install filters aimed at preventing people from illegally downloading music and other files, the EU's top court ruled Thursday.

The decision by the European Union Court of Justice is a defeat for backers of web filters, including artists and the entertainment industry, who are fighting to protect their work from circulating freely on the Internet.

The judges ruled that a national court cannot impose an injunction ordering an Internet provider to install a filtering system for all

electronic communications, saying it is too expensive for the company and could infringe on people's fundamental rights.

The case arose from a dispute in Belgium pitting web provider Scarlet Extended SA against SABAM, a Belgian management company responsible for authorising the use of music of authors, composers and editors.

SABAM complained in 2004 that Scarlet's customers were using peer-to-peer networks, which allow people to share files online, to download works from its catalogue without authorisation and without paying royalties.

A Belgian court then ordered Scarlet to make it impossible for its customers to send or receive any electronic files containing SABAM music.

But the EU court ruled that such filters require the monitoring of all electronic communications, which is incompatible with the Union's E-Commerce rules.

An injunction would "result in a serious infringement of Scarlet's freedom to conduct its business as it would require Scarlet to install a complicated, costly, permanent computer system at its own expense," the court said.

"The filtering system would also be liable to infringe the fundamental rights of its customers, namely their right to protection of their personal data and their right to receive or impart information," it added.

The International Federation of the Phonographic Industry, which represents the record industry worldwide, said that despite the rejection, the ruling only affected one system to protect copyrighted material

online in Europe.

"In this particular case, the court rejected the content filtering measure presented by the Belgian court as too broad," said IFPI chief executive Frances Moore.

"However, this does not affect the forms of ISP cooperation that IFPI advocates including graduated response and the blocking of rogue websites, which are already being implemented in countries across Europe," he said.

The European Internet Services Providers Association, which represents 1,800 ISPs across Europe, welcomed the ruling, saying it would have "serious implications" for content blocking systems imposed in other EU states.

"Considering the major contribution that the Internet industry can make to the economic recovery, it was indeed not the time to put the innovation of the Internet at risk," said association president Malcolm Hutty.

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Citation: EU court rules against web filters to block file sharing (2011, November 24) retrieved 20 April 2024 from <https://phys.org/news/2011-11-eu-court-countries-impose-internet.html>

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