



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

August 16, 2011

### **S. 968** **Preventing Real Online Threats to Economic Creativity and Theft of Intellectual Property Act of 2011**

*As reported by the Senate Committee on the Judiciary on May 26, 2011*

#### **SUMMARY**

S. 968 would authorize the Attorney General to commence legal actions against individuals who operate or register an Internet site dedicated to activities infringing on copyrights of others. In situations where the individual cannot be located, the Attorney General could proceed against the domain name. The bill also would provide immunity from liability for Internet advertising services and financial transaction providers that take preventative measures against copyright-infringing Internet sites.

Based on information from the Department of Justice (DOJ), CBO estimates that implementing S. 968 would cost \$47 million over the 2012-2016 period, assuming appropriation of the necessary funds. Pay-as-you-go procedures do not apply to this legislation because it would not affect direct spending or revenues.

S. 968 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

S. 968 contains private-sector mandates as defined in UMRA. The bill would impose new requirements on companies such as Internet service providers, credit card companies, online advertisers, and search engines that engage in activities related to Internet sites that infringe on the copyrights of others. The bill also would eliminate an existing right to seek compensation for damages caused by companies that voluntarily block access to or stop doing business with Internet sites suspected of infringing on copyrights. Because the costs of the mandates would depend on future judicial proceedings, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA (\$142 million in 2011, adjusted annually for inflation).

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 968 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

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|   | By Fiscal Year, in Millions of Dollars |      |      |      |      | 2012-<br>2016 |
|---|--|------|------|------|------|---------------|
|   | 2012                                   | 2013 | 2014 | 2015 | 2016 |               |
| <b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION</b> |  |      |      |      |      |               |
| Estimated Authorization Level                       | 9                                      | 7    | 10   | 11   | 11   | 48            |
| Estimated Outlays                                   | 7                                      | 8    | 10   | 11   | 11   | 47            |

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## BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 968 will be enacted near the end of fiscal year 2011, that the necessary amounts will be provided for each year, and that spending will follow historical patterns for similar activities.

Based on information provided by DOJ, CBO estimates that implementing S. 968 would cost \$47 million over the 2012-2016 period. DOJ anticipates that it would need to hire 22 special agents and 26 support staff to execute its new investigative responsibilities under the bill. Once fully phased in, CBO estimates the costs of the additional employees under the bill would reach about \$10 million annually, including salaries, benefits, training, equipment, and support costs. For this estimate, we assume the investigative positions would be fully staffed by 2014 and that future spending would be adjusted for anticipated inflation.

**PAY-AS-YOU-GO CONSIDERATIONS:** None.

## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 968 contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

## **ESTIMATED IMPACT ON THE PRIVATE SECTOR**

S. 968 contains private-sector mandates as defined in UMRA by imposing new requirements on companies that engage in certain activities related to Internet sites that infringe on the copyrights of others and by eliminating an existing right of action against entities that voluntarily cease interactions with Internet sites suspected of infringing on copyrights. Because the costs of the mandates would depend on future judicial proceedings, CBO cannot determine whether the aggregate cost of the mandates would exceed the annual threshold established in UMRA (\$142 million in 2011, adjusted annually for inflation).

By authorizing DOJ to take legal action against Internet service providers, credit card companies, online advertisers, and search engines that engage in activities that infringe on the copyrights of others, the bill would impose a mandate. The companies identified in a DOJ legal action would be required either to block access to the Internet site or stop doing business with the site. The bill also would allow copyright holders to take legal action to prohibit credit card companies and online advertisers from doing business with Internet sites that infringe on copyrights. Because of uncertainty about how often and against whom the Department of Justice or copyright holders would use the authority to prohibit the actions outlined in the bill, CBO cannot determine the cost of the mandate to the private sector.

By providing liability protection to companies that voluntarily take preventative measures to block access to or stop doing business with Internet sites that they believe are engaging in copyright-infringing activities, the bill would impose an additional private-sector mandate. Under current law, Internet sites have a right to seek compensation if they are harmed by such measures taken by a company. The cost of this mandate would equal the net value of the forgone awards and settlements in such claims. CBO has no basis for estimating the number of claims that would be filed in the future in the absence of this legislation or the level of potential damage awards in such cases, if any.

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