



So you want a data haven . . .

or

Building a Haven for Data and Journalism with IMMI

ToorCamp 2012

I don't know if you've noticed, but it's been kind of a rough few years for information and media freedom all around the world. We've won some big, high-profile battles, like ACTA, but we've had fight very, very hard to make that happen. As soon as the votes were counted on the ACTA victory in the EU, we saw efforts to push the same rules through via other closed-door trade negotiations, with even less transparency.

With a few (very) notable exceptions, most of the policy work that we're doing as a community is reactive, trying to stop this week's new horror, trying to hang on to the rights that we have. As they say, "the EFF is deeply concerned and monitoring the situation."

It's hard to be proactive with a government as heavily lobbied as the US. However, information is perfectly happy to cross borders. A haven for freedom of expression in one country can help everyone in the world.

The Icelandic Modern Media Initiative is a project to create the world's first sovereign haven for data, for freedom of expression, and for the free press. On July 16th, 2010, the Icelandic Parliament, or Althingi, unanimously passed a resolution to develop new legislation for the protection of information and free speech rights. In concert with Althingi, government ministries and institutions, and other civil society groups, the International Modern Media Institute has been driving this effort forward.

Once the suite of legislation is finished, Iceland will not only offer better protections than anywhere else on the planet, but it will be able to share some of those protections with organizations originally based in other countries.

In the past few years, even just in the US, we've seen a previously unprecedented crackdown on whistleblowers, we've seen serious suggestions that newspapers should be subject to prior restraint, having to clear potentially sensitive stories with the government, we've seen journalists repeatedly pressured to reveal confidential sources, and we've seen freedom of information act requests either repeatedly go unanswered, or be answered in ways that make a mockery of the intent of the law. If you care about media freedom, you understand how deeply troubling this is.

Even if you don't care about the media, there are problems that will impact you, especially if you're trying to run an Internet-oriented business in the US or Europe. Network neutrality, the question of whether carriers can charge a user more to access certain sites at full speed or the sites more for the carriage of their data, is under repeated attack. Likewise, sites are being forced in many jurisdictions to retain large quantities of data about their users, at nontrivial expense to the sites and massive privacy

cost to their users. Deep Packet Inspection systems are being used in many places to monitor and often to censor network traffic that the powers that be dislike—sometimes for political reasons, and sometimes just because a state telco doesn't want competition from VoIP.

Intermediary liability limitations—the laws that ensure that if a user uploads content to YouTube that violates someone else's intellectual monopoly grant, Google themselves can't be held liable due to their common carrier status—are also under attack. This comes just when we be expanding, not contracting intermediary liability limitations, to deal with new issues like algorithmic liability limitations.

IMMI is taking on all of these issues and more—we're also working on reforming law around libel and publisher liability, and we've got what we think is a solid solution in place for protection against libel tourism in Iceland, ensuring that malicious claimants can't use the laws of countries like the UK, where libel charges are very easy to bring, to attack the publishers and authors of stories in completely separate countries. We also have a virtual limited liability corporation measure coming, once the more immediate issues are dealt with, which will allow groups with no physical presence in Iceland to incorporate there, entirely online (and without needing an Icelandic speaker) to take advantage of Iceland's legal environment.

IMMI's work has been going slowly but steadily over the past two years. This chart shows about where we are with each item on our list. For five of the items, we have specific protections in the newly drafted Icelandic constitution. While two items are on hiatus, most of the remaining ones have either laws drafted or in active development.

We're coming into a critical period for the initiative right now. The newly drafted constitution will face a referendum in the fall, and we're also looking at a parliamentary election in the late spring. To succeed in providing the kind of protections we want to see in place, we need the constitution to not only pass referendum, but to do so by a large margin in an election with a significant turnout. As for the Althing, we don't know what the outcome of the election is going to be—the balance of power may shift suddenly. So, we want to get as much of the legislative program of IMMI finished before the election as possible.

If IMMI succeeds, we're not just creating a single-country haven, we're also creating a model for the rest of the world. In coming up with the package of laws that comprise the initiative, we looked all over the world, took the best laws we could find, and improved on them where we could. Take FOIA for instance—the position that IMMI hopes to see ratified in the new constitution would, as is now the case in Norway, require all government documents to be public by default. We're talking with civil society groups across Europe and the rest of the world about how IMMI can be brought in as a model for media freedom in their countries.

So, how can you help?

Three ways. The first is easy—IMMI is broke.

While it's not the only reason, the freedom of information prize that's part of the IMMI package—the first major international prize to be awarded for the subject—is currently on hold in part because there's no cash for it. Far more importantly, IMMI doesn't have the money to pay researchers,

assistants, and the staff we need to push through our work over the course of the next year, let alone to move beyond this year into international work in the future. We've been running on a tiny budget for the past couple of years—less than US\$50k a year—and we're going to need to hit at least US\$200k to make this happen. So, if you have some spare dollars, or kroner, or even bitcoins, we could use the help.

We also need publicity. Realizing how big of a deal the success of IMMI will be to the rest of the world will encourage Icelanders to turn out and vote for the constitutional referendum—because it's not just about Iceland, it's about media freedom for everyone. Also, it's important that the people who stand to benefit from the protections that IMMI has to offer know about them. This means journalists and news organizations, but it also means startups or existing companies that want to take advantage of an information-friendly jurisdiction. Publicity will also help drive international adoption of IMMI as a model for information freedom. So please, blog about IMMI, tweet about IMMI, tell your friends, tell your co-workers, tell strangers on the street.

The final thing that you can do to help is to submit patches. This is the way we think about law—it's just another system, and every system has bugs. When we find a bug, we write a patch and push it upstream. It's the responsible thing to do. If you happen to know Icelandic and you want to submit patches for Icelandic law, that would be awesome. More realistically (Icelandic is a kind of terrifying language to learn properly), analyze your own country's code, write the patches, and we'll show you how to go about getting them pushed upstream.

It's time to stop being reactive.

It's time to make every country into a data haven.

So remember: donate, teach, and patch.

To learn more, go to our website at immi.is, most of which is available in both English and Icelandic.

Before we break for questions, I'd like to thank Smári McCarthy and Birgitta Jónsdóttir for starting this crazy thing, along with everyone else who was involved. You can follow Smári (@smarimc) and Birgitta (@birgittaj), as well as myself (@dymaxion), on twitter to find out more news from IMMI.

Questions?

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