

EFF Challenges Secret Government Order to Shut Down Media Websites

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Seizure of Servers Hosting Indymedia Websites Violates the First Amendment

San Francisco, CA -- The Electronic Frontier Foundation (EFF) is representing a coalition of independent Internet journalists whose websites were shut down on Thursday, October 7, when their servers were seized by the FBI. The two servers, which were located in the United Kingdom and managed by San Antonio-based Rackspace Managed Hosting, hosted Indymedia's Internet radio station and more than 20 Indymedia websites, as well as several email lists.

The seizure was in response to a "Commissioner's Subpoena" issued at the request of a foreign government. Citing a gag order, Rackspace has provided no further details. An FBI spokesperson has confirmed that the subpoena was issued at the request of Italian and Swiss authorities. Earlier this month, the FBI made informal requests to both Rackspace and Indymedia to remove an Indymedia news story that included photos of undercover Swiss investigators posing as anti-globalization activists. At the time, the FBI admitted that the posting did not violate US law.

EFF has contacted the FBI to demand Indymedia's illegally seized servers be returned and is preparing for legal action in the event that negotiations with the FBI fail. EFF is also calling on Rackspace to challenge the government's illegal seizure. "If Rackspace stands behind its claim of providing 'Fanatical Support' to its customers, it will go to bat for Indymedia ~~one of its biggest customers~~ and demand that the FBI return the seized Internet servers," said Kurt Opsahl, EFF staff attorney. "Rackspace should also fight for its own rights and challenge the gag order preventing it

from sharing its side of the story." A federal court in New York City recently found a similar gag order unconstitutional in *Doe v. Ashcroft*, the ACLU's challenge to a secret PATRIOT Act subpoena served against an Internet service provider.

"The FBI can't pull the plug on more than 20 news websites -- our modern printing presses -- based on a secret proceeding at the request of a foreign government. This is a flagrant violation of the First Amendment," said Kevin Bankston, EFF attorney and Equal Justice Works/Bruce J. Ennis Fellow. "As far as the Constitution is concerned, Indymedia has the same rights as any other news publisher. The government can't shut down the New York Times, and it can't shut down Indymedia."

The Indymedia seizure bears a striking resemblance to EFF's very first case, *Steve Jackson Games v. US Secret Service*. In that case, the Secret Service seized the hardware and software of Steve Jackson Games, an Austin, Texas-based computer game publisher. That seizure, which shut down an Internet bulletin board and email server in addition to disrupting the publisher's business, was found to be an illegal violation of the publisher's rights.

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See also: [FBI seizes Global Indymedia Servers. Reasons Unknown](#)

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