



The Modern Media Initiative

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Icelandic Modern Media Initiative



- In June 2010, the Icelandic Parliament passed the so-called “IMMI” proposal
 - A parliamentary resolution tasking the government to make a legal framework to protect and strengthen media freedom and free speech.
 - Unanimously passed through Parliament
 - At least 14 laws needed to be changed and improved



Source Protection

- The right of journalists not to disclose their sources of information
- Council of Europe recommendation R(2000)7



Data Retention

- Being challenged throughout Europe
 - Germany, Cyprus and Romania declared it unconstitutional
- European law requires 6-12 months retention
- The CoE's Reykjavík Declaration MCM(2009)011 suggests a speedy rollback needed.



Data Retention

- 0.002% of police investigations are assisted by retained traffic data
- Average person in Denmark logged 225 times per day due to data retention
- Statistically insignificant increase in criminal case clearance rates.



Killing Data Retention

- Step 1: Remove from current law
 - Iceland not in EU
 - Data Retention Directive not EEA relevant
- Step 2: Make sure it never comes back
 - Iceland might join the EU (?)
 - Create demand for exception for Data Retention in Europe, or better yet, abolish the directive.

Whistleblower Protection



- Whistleblowers are known individuals
- Take great risks to inform of wrongdoing
- Internal or external whistleblowing
- Public or private
- Must protect: physical security, financial security, social security, psychological health

Intermediary Protection



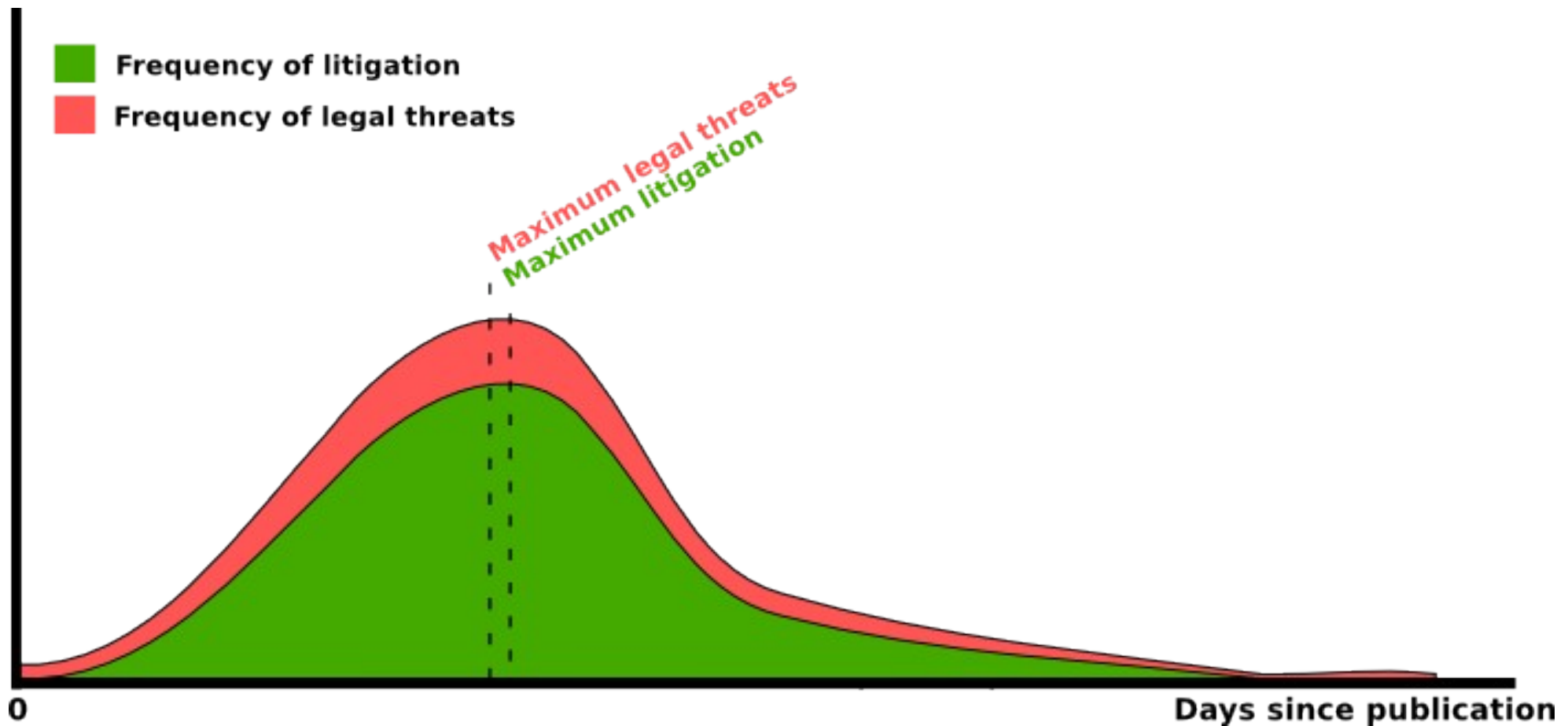
- Intermediaries not liable for published content
- Developed initially by accident (Cubby v. Compuserv)
- Exceptions for “higher values”, but often too vague
- Intermediaries very frequently unaware of their rights, or simply don't care
- Broken model, frequently attacked

Freedom of Information Act

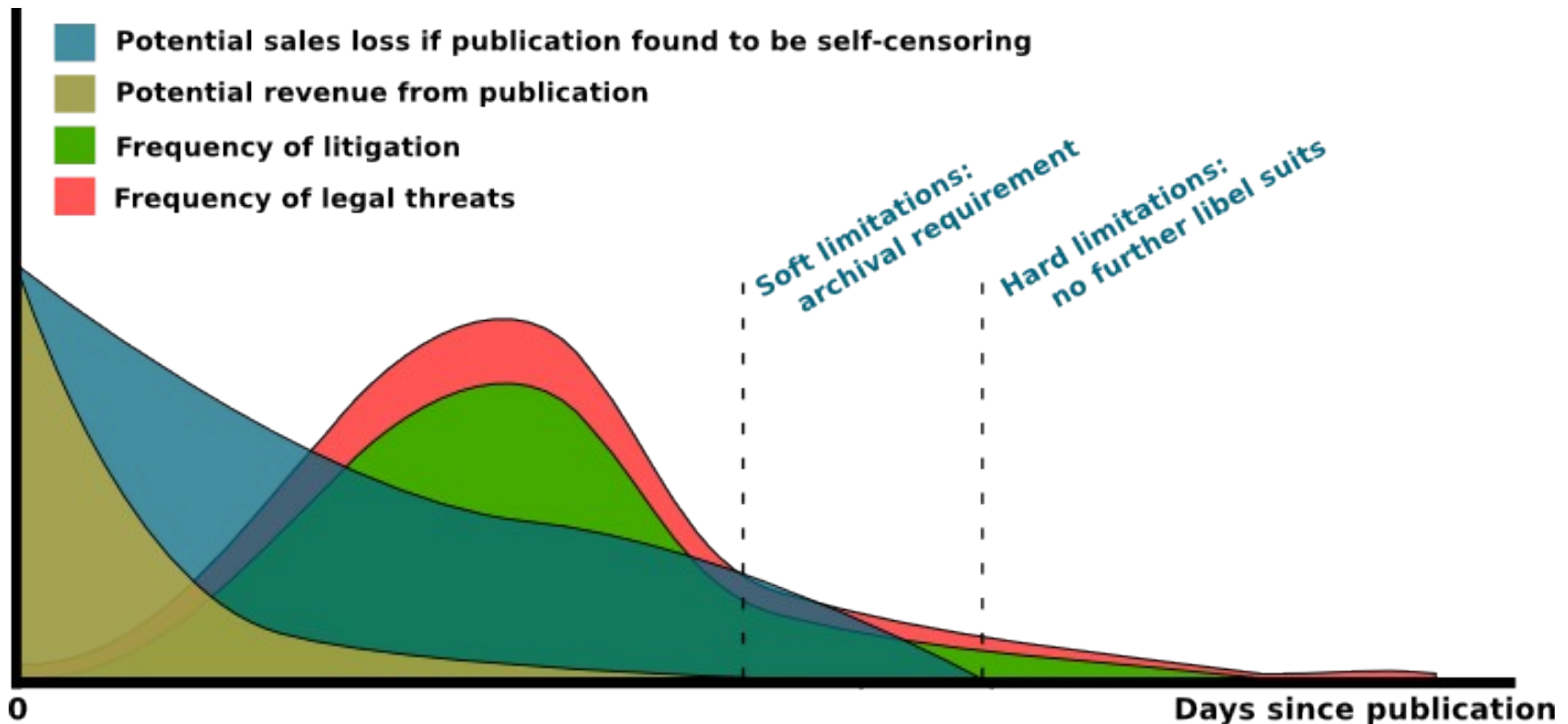


- Three generations of FOI/A2I
- Central registry of documents important
- All documents listed, even if unavailable
- If unavailable, reason stated
- If held back for national security or privacy, it must be clear who and on what authority made decision

History Protection



History Protection



Visit England



...come for the history
stay for the libel laws



Process Protection



- Small publisher should be able to stand up against rich litigant
 - Such as in Scientology vs. Time Magazine
- California's anti-SLAPP (Strategic Litigation against Public Participation)



Limiting prior restraint

- Banning material before publication
- Violates Icelandic constitution
 - Kaupthing's loan book leaked on Wikileaks
- A clause giving District Commissioners right to issue injunction needs to be removed

Media ownership



- In *Sürek vs Turkey* no 1 and 3, ECHR found that owners of publications are liable for published works
 - Hard to separate ownership from editorial policy
- Transparency can be guaranteed at least

Refugee Journalists



- CPJ been moderately effective
- Strong need for international agreement on “information refugees”
 - But beware of the massive loopholes in the Dublin conventions!

The big issues



- ~~Source Protection~~
- Communications Protection
- Whistleblower Protection
- Ending Data Retention
- ~~Freedom of Information~~
- History Protection
- Libel Reform
- ~~Prior Restraint Limitations~~
- ~~Blocking and filtering~~
- Network Neutrality
- Judicial Process Protection



No silver bullets

- Law is policy.
 - Policy only works while enforcers of the policy want the policy to be policy.
 - Ashby's Law of Requisite Variety.
- Privacy/security/freedom by design always more important
 - Strong encryption, etc, etc...
- No law can stop bullets, nor can law be a silver one.

Technological solutions to political problems



- We must guarantee that we don't legislate technological solutions out of existence
 - Dangerous precedents set in IPRED regarding “circumvention”
 - Reverse Engineering is a Human Right

AVMSD



- The transposition of the AVMSD in member states has been tragic at best
- The line between content that is covered, or not covered, by the directive remains unclear
- Problems with freedom of speech in some post-communist democracies of central and eastern Europe



LEWP proposal

- “a single secure European cyberspace”
- “virtual Schengen border” and virtual access points” whereby the Internet Service Providers (ISP) would block illicit contents on the basis of the EU “black-list”

NATO “kinetic retaliation”



- Under article 5 of NATO treaty, an attack on one NATO member constitutes an attack on all
- Traditionally understood to be kinetic attacks (armies, bombs)
- Recently expanded to include a *secret* protocol for kinetic retaliation to electronic attacks

Militarization of the Internet



- US Cyber Command
- US Army “Intelligence and Information Warfare Directorate” (I2WD)
- German “Bundestrojan”
- Syrian Electronic Army
- Iran, Pakistan, India
- CCD CoE (NATO Cooperative Cyber Defence Centre of Excellence)
- ... and so on ...