Pressure Grows on Spain to Curb Digital Piracy

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MADRID — In the last decade, a surge of music and movie sharing online in Spain has thrilled fans, but it has also increased pressure from as far away as Hollywood to clamp down. Spanish lawmakers are expected to vote this year on a measure that would allow the swift closing of sites suspected of facilitating file-sharing.

“We’re still going through adolescence in relation to intellectual property,” said the Spanish rock singer known as Loquillo. “The triumph of downloading in Spain is partly because people can watch the latest episode of their favorite American series with Spanish subtitles weeks before it gets dubbed and released on television here,” said Javier de la Rosa, a former radio presenter who is now a journalism professor at Francisco de Vitoria University here. “The quality and speed is also excellent nowadays, and some Web sites like Series Yonkis even help people by ranking downloads according to quality, so that’s very user friendly.”

The people who are trying to sell the movies and music are a lot less enthusiastic. Sony Pictures Entertainment warned in March that it was considering halting altogether the sale of its DVDs in Spain.

For the third year running, the American trade representative has included Spain on its watch list of countries that breach intellectual property rights because of its “particularly significant Internet piracy.”

Critics say it will be extremely difficult to stop illegal downloading in Spain because of the popularity of these Web sites and a perceived indifference to piracy as a crime. As many as three billion illegal downloads were made last year in Spain, far exceeding the 21 million legal downloads, according to a study by Cimec, a Spanish market research company.

Judges have also shown ambivalence toward the issue. In 2006, the attorney general advised that peer-to-peer downloading should be considered criminal only if done for profit.
“We have a tremendous shortage of cultural education and administrative efficiency so that nobody in Spain, not even the judges, seems to believe that you can go to jail for an intellectual property crime,” said Fernando Fernández Aransay, a partner at VTF Abogados, a Spanish law firm specializing in media issues. “The problem is not that Spain doesn’t have laws but that there are in fact too many, which means more confusion.”

Some other European countries have taken more forceful action to try to tackle piracy. Last year, French lawmakers approved a law under which illegal file sharers who ignore two written warnings to stop could face the loss of their Internet connection, though the law is not yet being applied.

Britain recently passed a similar law, though it also has yet to go into effect. Last month, an Irish judge upheld an agreement between Ireland’s largest Internet service provider, Eircom, and the music industry that authorizes cutoffs.

But Victor Domingo, president of the Spanish Internet Users Association, said the group would go as high as Spain’s constitutional court to fight any legislation that curtailed access.

“The government is putting authors’ rights, which are of course important, on the same level as much more fundamental rights of privacy and freedom of expression,” Mr. Domingo said. “It has cost us a lot in this country after 40 years of dictatorship to acquire such rights for our citizens, but now we risk losing them.”

The proposed law would, in effect, reverse the burden of proof, empowering a new commission to shut down suspect Web sites pending the outcome of any court appeal.

The proposal has generated debate because some critics see it as infringing on the rights of individuals. In a country where access to information and entertainment had been severely limited during the Franco dictatorship, Spaniards’ growing enthusiasm for the Internet and all that it offers reflects a profound cultural and generational change.

Mr. Domingo sees the fight against downloading as “just an excuse for companies to try to stick to a business model that no longer makes sense and is way behind the technology.”

Indeed, Spain once was one of the most thriving music and film markets in Europe, and executives in these industries fault file-sharing for the decline. The Spanish music market, which ranks 10th worldwide in revenue, has shrunk to a third of what it was in 2001, according to the International Federation of the Phonographic Industry, which represents the recording industry.

“Spain is a very young democracy, a country where rock songs got censored until 1978, so we’re still going through adolescence in relation to intellectual property,” said the Spanish rock singer known as Loquillo. “But we cannot get stuck in a fight between authors and Internet users while, much more importantly, our music industry is allowed to disappear or gets absorbed by outsiders.”

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