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# **Access Controlled**

## **The Shaping of Power, Rights, and Rule in Cyberspace**

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Jonathan L. Zittrain**

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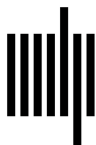
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# Italy

Italy promotes freedom of speech online by allowing access to most content. However, the Italian government has been slow to address many online privacy and freedom-of-information concerns, and Italy lags behind much of Europe in terms of Internet penetration. Italy, like much of the European Union (EU), regulates certain categories of Web sites, including child pornography and gambling. Additionally, a recently proposed law, dubbed the Levi-Prodi law, would impose registration and taxes on anyone creating “editorial content,” including bloggers. The law, which has faced significant opposition, has thus far not passed.



## Background

Italy has had a multiparty, democratic government since 1946. The 1948 constitution was written to prevent a return to early 20th-century fascism, and powers were spread among the different branches of government to limit the powers of the head of state. During the cold war, the country feared a communist overthrow, and as a result power

RESULTS AT A GLANCE					
Filtering	No Evidence of Filtering	Suspected Filtering	Selective Filtering	Substantial Filtering	Pervasive Filtering
Political	•				
Social			•		
Conflict and security	•				
Internet tools	•				
Other Factors	Low	Medium	High	Not Applicable	
Transparency			•		
Consistency	•				

KEY INDICATORS	
GDP per capita, PPP (constant 2005 international dollars)	28,682
Life expectancy at birth (years)	81
Literacy rate (percent of people age 15+)	99
Human development index (out of 179)	19
Rule of law (out of 211)	81
Voice and accountability (out of 209)	28
Democracy index (out of 167)	29 (Full democracy)
Digital opportunity index (out of 181)	28
Internet users (percent of population)	49

Source by indicator: World Bank 2009a, World Bank 2009a, World Bank 2009a, UNDP 2008, World Bank 2009b, World Bank 2009b, Economist Intelligence Unit 2008, ITU 2007, ITU 2008.

was consolidated among centrist parties. This concentration of power led to widespread corruption, and after the fall of communism the judicial branch launched a massive investigation that left no major parties untouched and involved more than one-third of the members of parliament.<sup>1</sup>

Corruption continues to be an issue and has influenced control over the media, particularly television. Prime Minister Silvio Berlusconi, who has held office for three separate terms since 1994, has come under scrutiny multiple times for corruption, including during the passage of a broadcasting law in 2004 that lifted ownership limits for national broadcast channels. Berlusconi now owns three of Italy's seven national television networks and several national newspapers.<sup>2</sup> In April 2006, he violated electoral law three times by exceeding his allotted media time when he broadcast long interviews on his own channels during the parliamentary election campaign.<sup>3</sup>

### Internet in Italy

Internet penetration in Italy stood at approximately 49 percent in 2008.<sup>4</sup> According to the first national study of Internet and computer usage, published in 2007, about 33 percent of children under age eleven, 75 percent of adolescents and adult women, and more than 80 percent of adult men access the Internet each month.<sup>5</sup> As of 2006, 47 percent of households had a home computer, and 40 percent of households had Internet access.<sup>6</sup>

The passage of Law No. 58, *Disposizionia per la Riforma del Settore delle Telecomunicazioni* (Rules for the Reform of the Telecommunications Industry), in January 1992 was the beginning of the privatization of Italy's telecommunications industry.<sup>7</sup> Previously, most telecom services had been provided by a collection of companies managed by the *Istituto per la Ricostruzione Industriale/Societa Italiana L Esercizio Telecom* (Institute for Industrial Reconstruction/Italian Telecommunications Society, IRI-STET) group, part

of Italy's state holding company. In June 1994, in compliance with Law No. 58, five of these companies merged to form Telecom Italia. Three years later, Telecom Italia merged with *Societa Italiana L'Esercizio Telecom* (STET), retaining the Telecom Italia name, to form a privately owned company that is now the country's largest telecommunications service provider.

Telecom Italia currently supplies around 7.7 million customers with broadband connections, accounting for approximately 80 percent of the market.<sup>8</sup> Other major ISPs include Swiss-owned FastWeb, which serves 15 percent of the market,<sup>9</sup> Tiscali, and Wind, owned by Egypt's Orascom.<sup>10</sup> DSL and dial-up access are also available from a number of smaller local and international providers.<sup>11</sup> The country's most widely available type of broadband connection is ADSL, which costs between EUR 19.95 and EUR 40.00 (USD 29.58 to USD 61.78) per month, with speeds ranging from 640 Kbps to 12 Mbps.<sup>12</sup>

Telecom Italia and Tiscali are both tier 2 carriers.<sup>13</sup> Within Italy, four main Internet exchange points operate, in Florence, Milan, Rome, and Turin.<sup>14</sup>

### Legal and Regulatory Frameworks

Compared with many of its European counterparts, the Italian government has been slow to come to terms with the digital world, and its attempts to create and apply legislation to the Internet often reflect this fact. In 2000, a group of Internet privacy advocates claimed that while Internet censorship was nonexistent in Italy, the government's lack of understanding of privacy and freedom of information posed significant problems for Internet and computer users.<sup>15</sup> In October 2007, the government proposed a bill, nicknamed the Levi-Prodi law for the lawmakers who proposed it, which would require all "editorial product" owners to register with and pay taxes to the *Registro degli Operatori di Comunicazione*, the regulatory authority that oversees media and broadcasting. The intention of the bill was to simplify Italy's publishing laws. However, the bill was broadly worded enough to be interpreted as applying to bloggers, Web site owners, and possibly even social network users, and drew widespread criticism from these sectors, traditional media sources, and civil rights groups as an example of the government's failure to adapt to modernity.<sup>16</sup> One writer noted that the bill contradicted EU directives and, if enacted, could be challenged before the European Commission and the European Court of Justice.<sup>17</sup> The bill was eventually reworded to apply only to commercial blogs; however, the debate continues, as noncommercial bloggers with advertising would potentially still be included.<sup>18</sup> As of November 2008, the bill had not yet been decided upon.

The government has attempted to regulate the Internet with the same laws that apply to print and broadcast media. These include a press law that holds publishers responsible for the content of their publications. Applied to the Internet, the law holds

Web sites responsible for all content they display, even user-posted content. Web sites with user-generated content, however, are not well suited to this type of supervision. The most visible incident related to this law occurred in November 2006, when prosecutors began an investigation of two representatives of Google after a violent video of four Italian teenagers attacking a disabled student was posted on Google Video.<sup>19</sup> Italian media law restricts the press from publishing anything that might be deemed “counter to morality,” a restriction Google allegedly violated by failing to check the content of the video before it was posted.<sup>20</sup>

In 2006, blogger Roberto Mancini was fined EUR 13,500 for criticizing several journalists in northern Italy on his blog. The verdict of the case stated that while the statements were not untrue (they were widely considered to be inappropriate), Mancini was responsible for everything that was posted, including some vulgar reader comments, and that it was his duty to act as an editor and remove any messages that were offensive.<sup>21</sup>

The National Security Committee, established in 2002, handles all Internet-related security concerns. The committee is composed of members from academia, the military, and the legal sector. Some concern has been expressed that nongovernmental civil rights organizations have not been consulted during public hearings held by the committee.<sup>22</sup>

Internet filtering in Italy has come to public attention largely through the government’s directives to ISPs. In 2006, Italy enacted a law that requires ISPs to block the Web sites of gambling operators that are not licensed nationally. The law, which affects more than 600 Web sites, isolates the country’s EUR 500 million gambling market from all but local operators. Providers that continue to allow users to place bets with banned Web sites after receiving a list of the offending sites from the *Amministrazione Autonoma dei Monopoli di Stato* (AAMS, Autonomous Administration of State Monopolies, a part of the Ministry of Economy and Finances) may be fined anywhere from EUR 30,000 to EUR 180,000 per violation.<sup>23</sup> Internet users who attempt to access the Web sites of foreign bookmakers are shown a message explaining that bets must go through the proper channels, and are directed to the AAMS.<sup>24</sup>

In January 2007, a law was passed requiring ISPs to block Web sites that display child pornography within six hours of receiving a notice from the Ministry of Communications.<sup>25</sup> The *Centro Nazionale per il Contrasto della Pedopornografia* (The National Center against Child Pornography, part of the Ministry of Communications) is in charge of maintaining a list of these Web sites. After receiving an initial list of banned Web sites from the center, ISPs had 60 days to block them at the domain-name level and 120 days to block them at the IP-address level.<sup>26</sup>

The “.it” country code is regulated by the Registro del ccTLD.it Rules Committee, which is made up of representatives of the Ministry of Communications and various Italian Internet associations.<sup>27</sup> Actual registration takes place through private “Maintainers” who register and maintain domain names on behalf of customers. Maintainers

must be licensed businesses in Italy and are required to pay an initial fee of EUR 2,500 to the registry. This fee includes start-up costs for the first year and 60 domain names, with invoices for additional domain names sent separately.<sup>28</sup>

### Internet Surveillance

A July 2002 EU directive instructs ISPs and telephone companies to temporarily retain all records of user activity and make these available to legal bodies, to the extent that doing so “constitutes a necessary, appropriate and proportionate measure within a democratic society to safeguard national security (i.e., State security), defense, public security, and the prevention, investigation, detection and prosecution of criminal offences or of unauthorized use of the electronic communication system.”<sup>29</sup>

As part of a set of antiterrorism measures passed in July 2005, the Italian government authorized Internet and telephone network surveillance.<sup>30</sup> The bill requires Internet cafés to keep photocopies of customers’ passports and to submit periodically logs of all Web sites visited to police headquarters.<sup>31</sup> The law also raises licensing requirements for telecommunication service operators, making licensing approval dependent upon the existence of satisfactory data-monitoring and retention systems.<sup>32</sup> In addition, the bill calls for the compilation of a list of all of Italy’s cell telephone users.<sup>33</sup>

Public reaction to the bill has come mostly from business owners, who complain that complying with the new regulations is expensive and cumbersome.<sup>34</sup> Several Internet café managers have seen drops in business, primarily from foreign customers who have forgotten their passports or who are unaware of the identification requirement.<sup>35</sup> Most Internet users seem to view the bill as innocuous, perhaps because Internet cafés cater more to tourists than to Italian citizens. A bill requiring ISPs to monitor Internet activity and to store user data for five years, which would have affected all users, failed to pass in 2003 after protests by activists and opposition parties.<sup>36</sup>

### ONI Testing Results

The OpenNet Initiative completed testing on four Italian ISPs: iNet,<sup>37</sup> Infostrada,<sup>38</sup> Telecom Italia,<sup>39</sup> and Tiscali,<sup>40</sup> and was able to confirm that one gambling site, partypoker.com, is blocked by Telecom Italia and Tiscali. The ONI was unable to confirm with certainty that the other ISPs have also blocked the Web site.

### Conclusion

Although Italy has regulations in place to prohibit access to Web sites within certain categories, access to the Internet remains relatively free apart from limited filtering, particularly of gambling sites. However, the potential passage of the Levi-Prodi law is a cause for concern, as are the government’s efforts to increase Internet surveillance.

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