



## Making EU copyright rules fit for the digital age - QUESTIONS & ANSWERS

Brussels, 9 December 2015

### 1) COPYRIGHT IN THE DIGITAL SINGLE MARKET

#### What is copyright and how is it defined at EU level?

Copyright is a framework of rules around how works – expressions of ideas – are legally protected and can be used. Copyright law consists of international, EU and Member States' rules. The current EU copyright law book comprises of [10 Directives](#). In particular, [Directive 2001/29/EC](#) (the "Information Society / Copyright Directive") has harmonised several exclusive rights and exceptions to copyright that are essential to the online dissemination of works and other protected subject-matter.

#### What are the different steps of the Commission's copyright action plan?

The Commission presented today its [action plan](#) to make EU copyright fit for the digital age and a [Regulation](#) to enable the cross-border portability of digital content such as films, sports broadcasts, music, e-books and games for temporary stays.

The new rules on the portability of content will need to be discussed with and endorsed by the European Parliament and the Council of the European Union. The Regulation will enter into force on the day it is published in the Official Journal of the EU (OJ). As proposed by the Commission, it will apply six months after it is published. This will leave time to online service providers and rights holders to adjust to the new rules if necessary. The Regulation will be directly applicable: no need for Member States to implement the rules into national law.

The next package of measures is due to follow in spring 2016. Several public consultations will help define the upcoming initiatives, for example, the ones on the [Satellite and Cable "CabSat" Directive](#) (already closed), on [platforms and online intermediaries](#) (open until 30 December) and on the [EU legal framework for the enforcement of intellectual property rights](#) (launched today).

The Commission will analyse the [legal framework for the enforcement of intellectual property rights](#), including copyright, by autumn 2016 and will come forward with a possible revision of this framework by the end of 2016.

### 2) ENSURING WIDER ACCESS TO CONTENT ACROSS THE EU

#### *- First step: new rules on cross-border portability*

#### What is the Commission proposing?

The Commission wants Europeans who buy or subscribe to films, sports broadcasts, music, e-books and games at home to be able to access them when they travel in other EU countries.

#### Aren't many services already providing portability? What is the scope of the problem?

Allowing cross-border portability means enabling consumers to use their home online subscription while they stay temporarily abroad. They will also be able to enjoy the legal content, such as films, e-books, music, they have purchased or rented. This is different from cross-border access which means that users, from their home country, access online services available in another Member State.

Consumers are currently cut off from most online audiovisual services and premium sports offers as soon as they leave their home country. On the contrary, cross-border portability is, today, generally, possible in the music and e-book sectors; but there is no full certainty for users and restrictions cannot be excluded in the future without EU action. Various trends justify the need for the EU to act on portability: the projected growth of online content services (notably legal subscription-based services), the increasing mobile use of content and the high interest in cross-border portability expressed by young Europeans. In this context, the scale of the problem is likely to increase over time if no action is taken.

#### Do you have examples?

People travelling abroad in the EU often face restrictions: they can be cut off from their online content services or have only limited access. Many people – especially when they leave for short trips – will not find it convenient to take out subscription to a local service, or may find that their favourite films and

series are not available or only in a foreign language.

- A subscriber trying to watch films using his Home Box Office (HBO) Nordic account when on holiday in Italy sees a message saying that the service "is only available in Sweden, Norway, Denmark and Finland".
- A French user of the MyTF1 film and series service is not able to rent a new film while on business trip to the UK.
- Users of the [ProSiebenSat.1](#) Maxdome TV, film and series online service cannot access their subscription from a computer, smartphone or tablet when they are outside of Germany.
- An Italian user of the transactional ChiliTV film and series service is not able to rent and stream a film while on holiday in Spain.

Travellers within the EU may sometimes have **partial access** to their online content and subscription services.

They may, for example, only be able to view the content that they have already downloaded onto their portable device.

- Users of the Belgian film service Universciné must remember to download a film they have rented before leaving for a trip in another EU country. They are not able to use the Universciné streaming feature when away from their home country.

Or they may have access to a limited selection of the content the service normally offers.

- Subscribers to the French online audiovisual service - Canal Play - could benefit from its "Summer to go" option allowing to download a selection of content and then watch it for 30 days.

They can use the local version of the service, if it exists in the country they are visiting, but the service may be very different from that at home (e.g. different choice or different language versions).

- A Dutch subscriber travelling to France will only be able to watch films offered by Netflix to French consumers. If he visits Poland, he will not be able to watch films on Netflix as Netflix is not available in Poland.

Many people can watch premium live sports from their smartphone or tablet, as part of their regular TV subscription, or they may pay for a special online sports service, but they are not able to catch that crucial live match when abroad in the EU.

- Viasat's Viaplay is one of Europe's first "sports only" online TV sports services and is available in Denmark, Finland, Sweden and Norway. However, a consumer cannot login to his account while travelling in the EU.
- Sky's Now TV is an online service offered by Sky in Italy, Germany and the UK, which includes unbundled online sports offerings. These services cannot be accessed by consumers while travelling in the EU (Sky TV Now content shown in Germany can also be viewed in Austria).

Many users might be tempted to resort to technological workarounds like Virtual Private Networks (VPNs) to access content across borders. According to a [recent independent study](#), 20% of Europeans would use a VPN or Proxy Server to access the internet.

There are less significant problems or restrictions concerning the portability of subscriptions to online music services (like Spotify or Deezer) or e-books. But restrictions in the future cannot be excluded, that is why today's rules are also important for such services.

### **What does "temporary presence" mean?**

According to the proposed Regulation, "temporarily present" means present in a EU country other than the Member State of residence. This includes people who are staying temporarily in a different EU country for business trips or for holidays.

The proposed rules do not set any limits for the use of the portability feature, as long as the user resides in another Member State.

Service providers should inform their subscribers of the exact conditions of their portability offers. In addition, right holders can require from service providers to implement effective means to authenticate the Member State of residence of subscribers so that to avoid abuses, e.g. by re-verifying the Member State of residence when portability is used beyond certain duration of time.

### **Will the cost of the services increase because of the introduction of the portability?**

The EU rules will not make purchasing, renting or subscribing to online content more expensive. Implementing the Regulation will imply only marginal costs for service providers. These costs will relate to the need to re-configure their user authentication systems, which will move from a geo-blocking approach to a temporary access approach.

These marginal costs will be largely outweighed by the advantages of the portability feature. The ability to use and enjoy online content when travelling in the EU will make these products and services more attractive to Europeans, and can result in more revenues for the creative sector. For almost 60% of young Europeans (15-24 year olds) cross-border portability is an important factor in taking up a subscription. Up to 29 million people would use this feature of online subscription services, and as many as 72 million in 2020.

### **How will you deal with the licensing aspects of portability?**

The Regulation will oblige online content service providers to offer cross-border portability to their customers. Under the proposed rules, the provision of the online content service will be considered to take place in the Member State in which the consumer resides. No separate licence would be required to cover the temporary use of the service in other Member States.

This legal mechanism will allow service providers to offer cross-border portability without the need to re-negotiate the licences existing between rights holders and service providers. Rights holders might wish to discuss details concerning the application of the Regulation with service providers, such as "temporary presence", but this could well be part of the periodic licence renewal process.

### **When is cross-border portability expected to be a reality in the EU (at the earliest)?**

Our objective is that the portability Regulation is approved swiftly in 2016 by the European Parliament and the Member States in order to be fully operational in the course of 2017, in the same year as the end of roaming charges in the EU. Many EU Member States and Members of the European Parliament have underlined the need for rules on cross-border portability, this is why they should enter into force as soon as possible.

### **Who should I complain to if my provider doesn't offer cross-border portability?**

The Regulation does not outline how Member States should check the respect of the rules by online content service providers. Monitoring and enforcement will be organised by the Member States according to their respective institutional arrangements (for example, consumer protection bodies might monitor the rules and citizens could challenge portability restrictions in courts).

### **Will the portability of sports online subscriptions be covered by the new rules?**

Yes, various online sports content services will be covered: where sports are part of TV or radio programme available online, where sports are part of the overall online service package, the main feature of which is the provision of works protected by copyright or related rights (e.g. films and series), but also where a sports organiser sets up a dedicated online content service.

### **Will Member States need to adopt implementing measures?**

No. In contrast to a Directive, a Regulation is directly and immediately applicable across the EU.

#### **- Next steps**

### **What else is the Commission proposing to improve cross-border access?**

The Commission will consider legislative proposals by spring 2016 including:

- o Enhancing **cross-border distribution of television and radio programmes online**, in light of the review of the Satellite and Cable Directive;
  - Supporting rights holders and distributors to reach agreement on **licences that allow for cross-border access to content** and on **cross-border requests by interested users from other Member States**. In this context, the role of mediation, or similar alternative dispute resolution mechanisms can be considered;
- o Facilitating the digitalisation of **out-of-commerce works** and making them available online, including across the EU.

Using its [Creative Europe programme](#) and other policy instruments, the Commission will also:

- o Further promote tools to bring more European works into the single market, including the creation of **ready-to-offer catalogues** of European films in order to help them reach online distributors, the development of **licensing hubs** to facilitate the licensing of works that are not yet available in a given Member State, and a larger use of **standard identifiers of works**. The use of common identifiers will help find rights holders more easily and facilitate licensing;
- o Support the development of a European **aggregator of online search tools** which will be offered to internet users (i.e. an online indexation of available legal offers), as well as promote **more efficient public funding to develop subtitling and dubbing**;
- o Intensify its **dialogue with the audiovisual sector** to promote legal offers and the discoverability and findability of films (in its future partnership with national film funds), to find ways for a **more**

**sustained use of existing European films** (with the help of the European Film Forum), and to explore alternative models of financing, production and distribution in the **animation sector that are scalable at European level** (in a structured industry cooperation forum).

### **What are the provisions of the Satellite and Cable Directive that could be extended to broadcasters' online transmissions?**

According to the ["CabSat" Directive](#), satellite broadcasting copyright only needs to be cleared for the "country of origin" of the broadcast, and not for the countries of reception of the signal. The Commission is reviewing the Directive and is assessing ways to enhance cross-border distribution of television and radio programmes online. Different options will be analysed taking into account the results of the recent [public consultation](#) on the Directive.

### **How could the mediation and alternative dispute resolutions mechanisms work?**

Broadly speaking, these are the means to resolve disputes without the intervention of judicial authorities. For example, in 2013, the EU adopted the [Directive on alternative dispute resolution for consumer disputes](#) and the [Regulation on online dispute resolution for consumer disputes](#). Both allow consumers and traders to resolve their disputes without going to court in an easy, fast and inexpensive way. The idea would be to apply such mechanisms to help rights holders and service providers find agreements on licensing.

The ["CabSat" Directive](#) provides for negotiation and mediation mechanisms for dispute resolution concerning the licensing of cable retransmission rights.

### **When is a work considered out-of-commerce? What will the Commission do?**

By "out-of-commerce works" we generally mean works that, while still under copyright protection, are not available to the public through the usual channels of distribution (e.g. books that publishers have stopped printing and selling). These works may still have a significant cultural or scientific value. Libraries and cultural heritage institutions in general often have large numbers of out-of-commerce works in their collections and can play a role in providing online access to them.

EU law does not include a legal definition of "out-of-commerce" works. However a definition is included in the [Memorandum of Understanding on the digitisation and making available of out-of-commerce books and learned journals](#), facilitated by the Commission and agreed to by right holder and library associations in 2011. It states that a work is out-of-commerce "when the whole work, in all its versions and manifestations, is no longer commercially available in customary channels of commerce, regardless of the existence of tangible copies of the work in libraries and among the public (including through second hand bookshops or antiquarian bookshops)".

The Commission wants to make it easier to digitise out-of-commerce works and make them available, including across the EU.

### **What are ready-to-offer catalogues of European films?**

Many interesting films are not selected by online distributors, for various reasons: distributors do not want to invest in subtitles to make these films available in different countries, smaller productions lack visibility, etc. The Creative Europe programme supports the creation of packages of films, which include subtitles, and co-finances encoding and promotion to boost their cross-border potential and make them more attractive to online distributors. Such ready-to-offer catalogues help distribute films online in territories where they have not been released through the mainstream distribution channels.

### **What are licensing hubs?**

Licensing hubs are innovative online tools facilitating the licensing of films for new audiences. They aim to improve the distribution of films in countries where they are not yet available online. Such initiatives can be supported by the research and innovation programme Horizon 2020 or by the Creative Europe MEDIA programme, as it is the case for the International Cinema Exchange project. This project is currently developing a film cloud that will offer users an unlimited cross-border access to a selection of films. This cloud will contain a "territory tracker" to link any access to a film by a user to the corresponding mechanisms of rights' management applicable in the Member State where the user is located. Therefore, in countries where the films in the cloud have already been released by other distribution channels following territorial exclusive licenses, the project will respect this prevailing system of distribution and remunerate rights holders accordingly.

### **How would a European aggregator of online search tools work?**

A European aggregator of online search tools is being developed with the [European Observatory on Infringement of Intellectual Property Rights](#). This tool is designed to improve the findability of European films and of the online services where they can be watched legally. The aggregator will interlink the different national search tools, (for instance [www.findanyfilm.com](http://www.findanyfilm.com) in the UK,

[www.mesientodecine.com](http://www.mesientodecine.com) in Spain or the French search tool (<https://vad.cnc.fr/>) and give access to films to internet users. The Observatory will also offer a toolkit enabling to create such search tools in countries where they do not exist today. The aggregator will give more information to users and greatly improve transparency. They will know immediately on which online platform and at which price a given film is available. Such a user-friendly search tool will encourage Europeans to use legal services, instead of turning to piracy. The tool will allow comparisons between all the legal offers across the EU and help identify where the offer is weaker.

### **Why are subtitling and dubbing important? How much EU funding is dedicated to subtitling and dubbing?**

According to a [recent Eurobarometer survey](#), 62% of Europeans only watch films or series that have either audio or subtitles in their country's language(s). Subtitling and dubbing represent a major challenge for the circulation of audiovisual works within Europe. It is, with promotion, one of the major costs covered by the Creative Europe MEDIA programme for supporting the cross border distribution of European films. In 2014, Creative Europe MEDIA spent around €4 million on subtitling and dubbing, helping some 500 films to reach new audiences. The Commission has recently increased this support (around 4.3 million for 2015). It has also launched, with the support of the European Parliament, two new projects, amounting to €4.5 million, to help with subtitles ([innovative solutions for subtitles, including crowdsourcing](#) and [new subtitled versions for TV programmes](#)).

### **How is the animation sector different from other audiovisual sectors?**

The European animation industry is at the crossroad of creativity and technology. Animation is one of the branches of the audiovisual sector with the greatest potential for export and a clear innovative mindset.

It is a very promising sector and it shows the potential of the creative industry market as well as its spillover effect: with an estimated EU animation production of €750 million in 2014 (15% of the overall movie industry), the top European animation companies are estimated to have a turnover of more than €2.5 billion.

Companies often operate from regional clusters (Madrid, Barcelona, Paris, London, Berlin) where they can successfully target other sectors such as the video games industry, thus favouring technology and knowledge transfers. Europe has world-class expertise in this sector and US producers often subcontract EU companies for their work. For example, *Minions*, the third most profitable film in the history of Universal Pictures, was created in Europe, in studios in Paris.

### **Will the Commission's geo-blocking initiative cover copyright-protected content or sports content licensing?**

No, it will not cover access to copyright-protected content and content licensing practices which are part of the modernisation of EU copyright rules.

As planned in the Digital Single Market strategy, Europeans will have a better access to digital goods and services, and to a wider content across Europe. We are working on different initiatives to reach this goal.

## **3) ADAPTING EXCEPTIONS TO DIGITAL AND CROSS-BORDER ENVIRONMENTS**

### **What is an exception to copyright?**

Exceptions allow for copyrighted works to be used, in defined circumstances, without prior authorisation from the copyright owner.

### **What is the Commission proposing regarding exceptions?**

**Firstly**, the Commission will propose legislation to implement the **Marrakesh Treaty** introducing a mandatory, harmonised EU exception allowing for the creation and dissemination, including across borders, of special formats of print material for people with print disabilities.

**Secondly**, the Commission will consider legislative proposals by spring 2016, to:

- o allow public interest research organisations to carry out **text and data mining** of content they have lawful access to, with full legal certainty, for scientific research purposes;
- o provide clarity on the scope of the EU exception for "**illustration for teaching**", and its application to digital uses and to remote learning;
- o provide a clear space for **preservation** by cultural heritage institutions, reflecting the use of digital technologies for preservation and the needs of born-digital and digitised works;
- o support **remote consultation**, in closed electronic networks, of works held in research and

academic libraries and other relevant institutions, for research and private study;

o clarify the current EU exception allowing the use of works that were made to be permanently located in the public space (the so-called "**panorama** exception"), to take into account new dissemination channels.

### **What is the disability exception? What is the Marrakesh Treaty?**

According to EU copyright law (Article 5(3)(b) of Directive 2001/29/EC), Member States may establish that no prior authorisation of the rights holder is required if copyright-protected content is used for the benefit of people with disabilities. However, the optional nature and the lack of cross-border effect for this disability exception raise problems. The exception does not work across borders, meaning, for example, that it is impossible for people with print disabilities to access special format books made under the exception of another Member State. Moreover, the scope of implementation in Member States varies: for instance, dyslexia is not always covered.

The Commission has made an international commitment to address this issue by signing up to the [Marrakesh Treaty](#) (Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled).

The Marrakesh Treaty is an international copyright instrument, adopted in June 2013 aiming at facilitating access to published works for persons who are blind, visually impaired or otherwise print disabled. The EU signed it in 2014. It now needs to be ratified and implemented in EU law.

### **Why would an exception for text and data mining (TDM) be needed?**

Text and data mining (TDM) refers to technologies through which vast amounts of digital content are read and analysed by machines. TDM is used in science and research, notably to discover correlations between materials produced in different scientific fields and generate new knowledge. Today, the implementation of the exception on scientific research (Article 3(a) of Directive 2001/29/EC) differs across the EU and the lack of a clear EU provision on TDM for scientific research purposes creates uncertainties in the research community. Moreover, the current situation harms the EU's competitiveness and scientific leadership at a time when research and innovation activities increasingly take place through cross-border and cross-discipline collaboration and on a larger scale. In its [Digital Single Market strategy](#) presented in May, the Commission highlighted the need for greater legal certainty in the cross-border use of content for specific purposes such as text and data mining. The Commission intends to allow public interest research organisations to carry out text and data mining of content they have a lawful access to, with full legal certainty, for scientific research purposes.

### **What is the exception on illustration in teaching? What is the problem?**

According to the copyright law (Article 5(3)(a) of Directive 2001/29/EC), Member States may establish that prior authorisation of the rights holder is not required if a copyright-protected content is used for the sole purpose of illustration for teaching. For example, copies of a text by a Spanish author can be used in a classroom to help young Dutch students to learn Spanish. Today, the implementation of the exception differs across the EU and does not always enable modern educational practices such as online courses or the use of technologies and digital materials in classrooms or cross-border learning.

### **What is the "panorama" exception? What is the problem?**

According to EU copyright law (Article 5(3)(h) of Directive 2001/29/EC), Member States may establish that no prior authorisation of the rights holder is required for the use of works, such as works of architecture or sculpture, made to be located permanently in public places. This exception allows in particular people to take and upload online pictures of these works. Four Member States have not implemented it (Belgium, France, Italy and Luxembourg). Other Member States have implemented it in different ways (e.g. as regards the types of works covered, if they include street art and sculptures or not, and as regards the allowed uses).

### **Do you intend to harmonise levies related to private copies?**

Many Member States impose levies that compensate rights holders for the reproduction and private copying of their works on a wide range of media and devices. These levies are set, applied and administered in a variety of ways. This situation may cause legal uncertainty and lead to double payments and lack of transparency of levies for consumers and other issues which are contradictory in an EU Single Market. The Commission will look at this situation and at how levies could be more efficiently distributed to rights holders.

## **4) A FAIRER MARKETPLACE**

### **What is the Commission proposing?**

The Commission is reflecting on the different factors around the sharing of the value created by new forms of online distribution of copyright-protected works to the various market players. By spring

2016, we will consider measures in this area.

In this context, we will examine whether action is needed on the **definition of the rights** of "communication to the public" and of "making available". We will also consider other possible actions, including intervening on **rights** more generally.

Initiatives in this area will be consistent with the Commission's work on online platforms as part of the Digital Single Market strategy (public consultation ongoing).

The Commission will also consider whether solutions at EU level are required to increase legal certainty, transparency and balance in the system that governs the **remuneration of authors and performers**.

### **Will you legislate on the use of copyright-protected content by news aggregation services?**

The Commission will consider whether any action specific to news aggregators is needed, including intervening on the definition of rights. Some legal solutions have been attempted in certain Member States – the Commission is monitoring their impacts on the markets.

### **Does the Commission intend to tax hyperlinks?**

The Commission has no plan to tax hyperlinks. We have no intention to ask people to pay for copyright when they simply share a hyperlink to content protected by copyright. Europeans share and post hyperlinks every day and they should remain free to do so.

The Commission will look at the activities of different types of intermediaries in relation to copyright-protected content. This is a different issue.

News aggregators, for example, are not only using hyperlinks but also extracts of articles and may gain revenue doing so.

Different solutions related to news aggregators, both legislative and market-led, are being tested at national level. We are closely looking into them and are analysing whether they deliver on their objectives.

### **What are the rights of communication to the public and of making available? How do they work? What is the problem?**

The rights of "communication to the public" and of "making available" govern the use of copyright-protected content in digital transmissions in the EU. The first covers all communication to the public not present at the place where the communication originates (e.g. broadcasting). The second concerns interactive on-demand transmissions, where consumers access copyright-protected content from a place and at a time individually chosen by them.

The scope of "communication to the public" and of "making available" determines what constitutes an act on the internet over which creators and creative industries can claim rights. And then, on this basis, they can negotiate licences and remuneration. However, there are contentious grey areas and uncertainty about the way these concepts are defined in EU law, in particular about which online acts are considered "communication to the public" and under what conditions.

As a result, rights holders do not always get a fair share of value generated by some of the new forms of online content distribution.

### **How do you intend to ensure better remuneration of authors and performers?**

In addition to improving the sharing of the value created by new forms of online distribution of copyright-protected works, the Commission will assess whether EU-level action is required to increase legal certainty, transparency and balance in the system that governs the remuneration of authors and performers.

The Commission has launched two studies to examine the situation in the audiovisual, music and print media sectors.

The results of the [study related to the audiovisual and music sectors](#) have already been published. Main findings show that there is a lack of transparency of the remuneration arrangements in the contracts of authors and performers in relation to the rights transferred. The complex contractual relations between creators on the one hand and publishers, producers and collective management organisations on the other, make it hard for authors and performers to understand what remuneration they are owed for the use of their rights. This is particularly relevant in relation to the digital forms of exploitation. The study also shows that certain groups of authors and performers, such as those new to the industry, are in a weaker bargaining position than others. Findings also highlight the important role played in some Member States by unions and associations (and collective management organisations that fulfil similar functions), especially for authors and performers in the audiovisual sector, when it comes to negotiating and enforcing remuneration agreements.

The second study related to the print media sector (authors of books, scientific journals, translators, journalists and visual artists) is underway and will be finalised in early 2016.

## 5) FIGHTING PIRACY

### What is the Commission proposing?

The Commission will take immediate action to engage, with all parties concerned (notably rights holders, service providers, consumers and civil society), in setting up and applying "**follow-the-money**" mechanisms. The aim is to disrupt the money trail for commercial-scale intellectual property infringing activities and to make them economically unviable. This will first be based on a self-regulatory approach: the Commission aims to reach balanced agreements for the protection of all intellectual property rights, including copyright, by spring 2016. Codes of conduct at EU level could be backed by legislation to ensure their full effectiveness.

The Commission will furthermore analyse the [legal framework for the enforcement of intellectual property rights](#), including copyright and will come forward with a possible revision of this framework in 2016. Clarifying the rules for identifying infringers, the (cross-border) application of measures and injunctions, the calculation and allocation of damages and legal costs could be considered. As a first step, the Commission has launched today a [public consultation](#) on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights, in order to seek views of all parties concerned on these issues.

The Commission is also carrying out a comprehensive assessment and a [public consultation on online platforms](#), which also covers the swift and efficient removal of illegal material ("**notice and action**" mechanisms).

### Which stakeholders would be involved in the development of "follow the money" initiatives?

The Commission will facilitate the development of efficient and balanced "follow the money" initiatives which aim at depriving commercial-scale infringers of intellectual property rights of their revenue flows. This process will involve rights holders and intermediary service providers (such as advertising and payment service providers and shippers) but also consumers and the civil society.

*What does the Commission foresee regarding the swift removal of illegal content?*

The [e-Commerce Directive](#) foresees that internet service providers should not be liable for the content that they hold and transmit passively. At the same time, when illegal content is identified, intermediaries should take effective action to remove it, whether it is information that is illegal (e.g. terrorism/child pornography) or information that infringes the property rights of others (e.g. copyright). Today the removal of illegal content can be slow and complicated while content that is actually legal can be taken down erroneously. In fact 52.7% of stakeholders say that **action against illegal content is often ineffective and lacks transparency** ([results of the 2012 public consultation](#)). Differences in national practices undermine enforcement (with a negative effect on the fight against online crime) and confidence in the online world. The Commission will analyse the need for new proposals to tackle illegal content on the internet such as **more rigorous procedures** for removing illegal content – 'notice and action' mechanisms (including the issue of action remaining effective over time – the 'take down and stay down principle'). It will analyse as well whether to require intermediaries to exercise greater responsibility and make more efforts in the way they manage their networks and systems – a duty of care. The Commission will consider all existing unilateral measures already adopted by intermediaries against illegal and harmful content and analyse best practices from different Member States. The initiatives of the Commission in this area will be consistent with its work on online platforms, notably with the results of the ongoing public consultation on platforms and online intermediaries.

### Do you have statistics on piracy in the EU?

Nearly 70% of Europeans download or stream films for free, whether legally or illegally, according to a [European Commission study on audience behaviour](#) published last year.

A recent [survey of the European Observatory on Infringements of Intellectual Property Rights](#) shows that 22% of Europeans consider it acceptable to access/download or stream illegal content when there is no legal alternative in their country.

The [European Observatory on Infringement of Intellectual Property Rights](#) is working on a series of studies to quantify intellectual property rights infringements and their impacts. It includes an upcoming study, with the support of the [Joint Research Centre of the European Commission](#), on infringements in the music, film and e-book industries.

See also: [IP/15/6261](#)

Press contacts:

[Nathalie VANDYSTADT](#) (+32 2 296 70 83)

[Marie FRENAY](#) (+32 2 29 64532)

General public inquiries: [Europe Direct](#) by phone [00 800 67 89 10 11](#) or by [email](#)