



***“Challenges of sport events’ organisers in the digital environment”
Explanatory Paper from the Sport Rights Owners Coalition
Dispelling Common Misconceptions – February 2021***

In the debate on the European Parliament Report on the challenges of sport events’ organisers in the digital environment, we see resounding consensus amongst, policymakers (including MEPs, the European Commission, Europol and Eurojust) legal experts and stakeholders that something must be done about the growing issue of online piracy of sports events.

Yet, when it comes to the question of what can and should be done, the debate is sometimes derailed and undermined by misconceptions and misunderstandings. This, in turn, undermines the ability of EU policymakers to take vitally important action.

The Sports Rights Owners Coalition which gathers representatives of more than 50 International, European and National sports bodies, would like to respectfully dispel those misconceptions and misunderstanding. Our objective is to demonstrate that there is an efficient, cost-effective and light-touch remedy which would have a hugely positive impact on the fight against digital piracy. An obligation for certain intermediaries such as providers of streaming servers and video streaming platforms to provide a tool to identify and switch off in real-time infringing streams is not a proactive measure nor an upload filter. It is simply a complement to the classic notice and action mechanism in the framework of live events whose value is gone after a very short period of time.

You will find below our responses to the misconceptions and misunderstanding we came across during the various debates. We hope you will find those useful and we remain available should you have any further questions.

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Misconception	Reality
<p>1. Why should illegal sport content be taken down quicker than alleged terrorist content?</p>	<ul style="list-style-type: none"> - Illegal live content, including sport content, must be taken down very quickly otherwise its value is simply destroyed. So, it is binary: either illegal live content is taken down quickly and we get the protection provided by the law or we don't, and our rights continue to be infringed as in the past years. - Alleged terrorist-related content is generally subject to interpretation. It therefore needs to be reviewed carefully, which takes time. Illegal streams of sport content do not need to be reviewed as authorised rights holders are few and easily identified through watermarking and fingerprinting technologies. - A 15-30 minutes take down is not difficult to implement technologically speaking. Some intermediaries already do it, usually through trusted flaggers. Alarming practice is also developing where certain intermediaries have informed us that they can do it but want to be paid for it, thus creating a new source of revenue for themselves by willingly taking advantage of a problem that they allow to develop.
<p>2. The real-time takedown tool is a proactive measure, an upload filter and form of content moderation.</p> <p>The real-time takedown tool can lead to the erosion of fundamental rights such as freedom of expression, freedom of press and consumer privacy online.</p>	<ul style="list-style-type: none"> - The real-time take down tool is not a proactive measure or an ex-ante filter or a content moderation tool of any kind. It is simply a tool that Streaming servers' providers (DSPs) must provide and which could be used by rights holders after they monitored the streams available and flagged the non-licensed ones. - It is an ex-post enforcement mechanism to enable the immediate switch off by DSPs of unauthorised streams. - This identification and mandatory response tool would not concern users, consumers or journalists. The scope would only involve DSPs and operators of video streaming platforms.
<p>3. Allowing the tool would be giving rights owners control of platforms</p>	<ul style="list-style-type: none"> - The tool is a complement to the classic notice-and-action mechanism already codified in EU law and widely used. - It is simply applying notice and action to the specificities and context of live content online.

	<p>It does not give rights owners control of platforms, just the ability of signalling in real-time illegal content at the root server and make sure there is immediate response from DSPs.</p>
<p>4. The take down tool would imply too much of a burden on finances and resources, especially on many SMEs, and put them at a disadvantage.</p>	<ul style="list-style-type: none"> - This tool is low-cost and easy to set up. It is not a separate complicated functional software or system. It simply requires the provision of an Application Programming Interface (API) which is commonly used by any internet intermediary in their customer management. - The obligation would be to simply provide the tool. There is absolutely no request of monitoring the content linked to it. - The obligation to provide the tool would focus on very specific intermediaries which are those providing streaming servers. Those are not newborn companies with no staff and no infrastructure. Quite the contrary.
<p>5. It will impact consumer's ability to share content on video-sharing platforms</p>	<ul style="list-style-type: none"> - The tool has nothing to do with consumers / users of video-sharing platforms who upload content they create. - In the contrary, consumers risk the misuse of personal data for commercial and illegal purposes of the criminal networks behind sport content piracy.
<p>6. The real-time takedown tool is unnecessary because there is an MoU on online advertising and IPR that already addresses all types of Internet piracy and is a sufficient instrument to reduce piracy</p>	<ul style="list-style-type: none"> - The MoU is an instrument to limit advertising on structurally infringing websites but does not address online piracy that is non-ad funded and is based on subscription models. It does not cover apps and IP TV either. - As a voluntary agreement, the MoU relies upon co-operation. However, certain intermediaries do not even respond to the millions of notices that sport events' organisers sent every season, having absolutely no interest in engaging with them. - The tool would make the existing notice-and-action measures efficient for live content including sport but also music concerts and live TV shows.

7. The real-time takedown tool would over block and would impact on legitimate content

- The tool allows for the real-time identification and targeted switching off specific illegal content.
- Live sport content is usually watermarked and/or fingerprinted making the identification of illegal / unauthorised streams very straight forward. There is no doubt on whether the stream is legal or not and therefore no risk of over block.
- As streams only are targeted, the pop up on a website would be switched off, rather than the access to the website itself.
- Like for any notice and action mechanism, a redress / counter claim mechanism can be put in place.