

COMMERCIAL BROADCASTERS WELCOME EUROPEAN COMMISSION PLEDGE TO TACKLE ILLEGAL CONTENT ONLINE

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BRUSSELS, 28 SEPTEMBER. The Association of Commercial Television in Europe (ACT) welcomed the publication today of the European Commission’s Communication [Tackling Illegal Content Online: Towards an enhanced responsibility of online platforms](#). The Communication’s self-regulatory approach involves online platforms taking greater responsibility for removing illegal content uploaded by users.

The Communication is clear that violations of intellectual property – primarily copyright – are one of the illegal practices which must be tackled. As part of the ongoing reform of the Copyright Directive, the Commission has also proposed that some online platforms should be responsible for either seeking copyright licences or removing unlicensed works.

These reforms are necessary and entirely consistent with existing case law and legislation. ACT has consistently supported action to address the harm caused by unlawful online hosting of TV programmes and films.

Agnieszka Horak, ACT’s Director of Legal and Public Affairs, said:

“Illegal online versions destroy the financial value of TV and film productions and ultimately lead to less content for audiences to enjoy. The Commission’s ambitions for the Digital Single Market will only be met if it tackles this destruction of value in the audio-visual sector.

“Respect for intellectual property rights is one of the standard rules of business. Until now, modest attempts to ease online platforms into taking greater responsibility for the content they host have been unfairly criticised.

“Commercial broadcasters are encouraged that intellectual property violations are now among the issues the Commission says online platforms must address. Today’s Communication complements the legislative proposals already under negotiation to clarify the responsibility of online platforms as part of reforms to the Copyright Directive. Both initiatives need to be pursued in parallel.

“The EU is taking increasingly confident steps to get online platforms playing by the same rules as everyone else. The Commission has set out today an initial list of practical measures that responsible platforms must now take. Clear requirements for platform responsibility will benefit all Europeans.”

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NOTES TO EDITORS

1. Illegal online versions of TV programmes and films reduce investment in new content by broadcasters because they reduce channels' legal audiences. This reduces in turn the advertising and subscription revenue which finances the wide variety of high quality content commissioned by Europe's commercial broadcasters for audiences to enjoy.
2. The European Commission's Communication *Tackling Illegal Content Online: Towards an enhanced responsibility of online platforms* ([COM\(2017\) 555 final](#)) has been published today. It sets out guidance and principles for online platforms (including search engines, social networks, micro-blogging sites and video-sharing platforms), national authorities, Member States and other stakeholders, including on the use of technology to identify illegal content and the operation of so-called "Notice-and-Take-Down" procedures, by which illegal content is reported to platforms and they then remove it.
3. The European Commission's [proposal for a Directive on copyright in the Single Market](#) is still under discussion in the European Parliament and the Council. Article 13 seeks to address the investment gap under which rights holders lose revenue when content is uploaded to online platforms without rights being cleared. It would require that *"Information society service providers that store and provide to the public access to large amounts of works or other subject-matter uploaded by their users shall, in cooperation with rightholders, take measures to ensure the functioning of agreements concluded with rightholders for the use of their works or other subject-matter or to prevent the availability on their services of works or other subject-matter identified by rightholders through the cooperation with the service providers."*
4. The "safe harbour" provisions of the [eCommerce Directive](#) prevent "intermediary service providers" from being held liable to third parties for the content which they host, provided certain conditions are met. For hosting providers, those conditions include that the hosting is of a mere technical, automatic and passive nature, and that there is expeditious blocking or removal of content once the provider becomes aware that it is illegal. The proposed reforms to the Copyright Directive are entirely consistent with the eCommerce Directive; there would be no change for intermediary service providers (access, caching and hosting providers).
5. There is a broad consensus in peer-reviewed academic studies covering a range of different types of content that piracy harms legal sales. See Danaher, B., Smith, M., and Telung, R. (2015) [Copyright Enforcement in the Digital Age: Empirical Economic Evidence and Conclusions](#), prepared for the World Intellectual Property Organization (WIPO) Advisory Committee on Enforcement.

ABOUT THE ASSOCIATION OF COMMERCIAL TELEVISION IN EUROPE



The Association of Commercial Television in Europe (ACT) represents the interests of leading commercial broadcasters in Europe. The ACT member companies finance, produce, promote and distribute content and services benefiting millions of Europeans across all platforms. At ACT we believe that the healthy and sustainable commercial broadcasting sector has an important role to play in Europe's economy, society and cultures.

For further enquiries please consult our website www.acte.be and/or contact our Head of Information Paola Colasanti pc@acte.be