

LIVE CONTENT COALITION INPUT TO EC CALL FOR EVIDENCE ON COMBATING ONLINE PIRACY OF LIVE CONTENT

We thank the European Commission (EC) for the opportunity to offer our feedback. As signatories to the [Call To Action to End Live Piracy Now](#), we would like to restate that an EU legislative instrument still remains the most efficient way to tackle piracy of live content within and across Member States. Piracy represents a real risk to the whole creative and cultural industry value chain, to consumers' welfare and to the overall EU economy.

With regards to the Call for Evidence (*extracts below*), we ask that the Recommendation be clear on three outcomes:

1. Clarify the current EU legislative basis

As the Recommendation aims at “*identifying the best available means in Union law to help broadcasters and live events organisers, including sports event organisers, to prevent online piracy [...]*”, it is clear that the main focus should be on the **immediate removal of infringing content** via the notice and take down mechanism. The issue we have always had to face is the delayed response, if any, from online intermediaries that have been notified. The recently adopted Digital Services Act (DSA) makes no meaningful change to the concept of “expeditious” removal currently enshrined in EU law. The latter is open to interpretation from online intermediaries which, in many cases, means they will simply respond to notices hours or days after the end of the live event. This makes enforcement meaningless.

The Recommendation should take into account the nature of the content to build on the concept of “timely” removals which was introduced in the DSA. As live content is almost always watermarked and/or fingerprinted there is no question about identification and the removal should be immediate and, in any case, well before the event terminates.

2. Promote dynamic injunctions and identify why and where there are gaps in their application

Injunctions remain an effective tool when requests to take down the content are ignored. Yet there is room to harmonise enforcement, increase effectiveness and address existing barriers. Article 8(3) of the Information Society Directive requires Member States to ensure that rights holders can apply for an injunction against intermediaries whose services are used to infringe copyright. However, as indicated in the Call for Evidence “*injunctions targeting live events, are used in certain Member States (...)*” only. The issue is linked to the statutory test set out in Article 8(3) which contains a discretionary element which Member States have used to create vastly divergent regimes across the European Union.

3. Deliver an assessment mechanism that reflects market realities

We welcome the commitment to “*set up a monitoring system to assess the effects of the recommendation on the effectiveness of the legal remedies...*”. However, it is crucial that the European Commission prescribes the indicators based on which this assessment will be carried out and involves rightsowners and live event organisers in the monitoring process. Moreover, **the Recommendation should contain a review clause (no later than 12 months following publication). Where this review shows insufficient impact on objective market criteria, the EC should commit to proposing a dedicated legislative initiative.**

About the Live Content Coalition

The Live Content Coalition is a group of representatives of leading European live content producers, broadcasters, and exhibitors. As representatives of live events, including sports, music concerts and festivals, broadcast television and video on demand services, and tickets sellers, we are all united in the fight to stop piracy. Find more information at livecontentcoalition.eu