[FR] Signature of an Agreement on Cultural Works and Combating Piracy on the Internet

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Amélie Blocman
Légipresse

On 23 November 2007 rightsholders of the audiovisual, cinema and music sectors, Internet access providers (IAPs) and the public authorities signed an agreement on cultural works and on combating piracy on the Internet. The agreement is the end result of the mission entrusted by Nicolas Sarkozy to Denis Olivennes last September (see IRIS 2007-9: 14 and IRIS 2007-10: 14), bringing together, for the first time, 42 bodies and companies agreeing on a number of joint proposals, and has been described by the Minister for Culture as “historic”. According to the terms of the agreement, the public authorities have undertaken to adopt the necessary regulatory and legislative measures for setting up, through the IAPs, a system of warnings and sanctions against enthusiasts of unlawful downloading. The system could go as far as to suspend access to the Internet and termination of the subscription contract. The system should be based on the principle of the subscriber’s responsibility for the fraudulent use of his/her access, which is currently covered by Article L. 335-12 of the Intellectual Property Code. An independent administrative authority (which could be the Authority for the Regulation of Technical Protective Measures set up by the DADVSI law of 1 August 2006) will be given responsibility for applying the measures, and will have powers of sanction in respect of those IAPs that fail to provide a diligent response to its injunctions, and will publish monthly statistics reporting on its activity. Content host and share platforms, for their part, have undertaken to assess, select and promote systems for marking content (fingerprinting and watermarking), in collaboration with the economic beneficiaries. The agreement also provides for an amendment of media chronology reducing the amount of time before a film can be offered on VoD (currently 7½ months after first cinema screening) to 6 months, and making works available more quickly for lawful downloading on the Internet. This includes the removal of any protective devices that prevent interoperability, for “as broad as possible a catalogue” of music. The IAPs, for their part, undertake, in implementing the system of warnings and sanctions, to collaborate with the economic beneficiaries on the methods for the large-scale deployment of network filtering.

A number of organisations representing the music industry have indicated their satisfaction with the proposals. The national syndicate of phonographic publishing (*Syndicat National de l'Edition Phonographique*) and the civil society of phonographic producers (*Société Civile des Producteurs Phonographiques*) have approved the setting up of an independent administrative authority responsible

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for taking steps to combat piracy and publishing a monthly report on its activities. In return, “subject to the effective functioning of the scheme”, they undertake to make available the music catalogues produced in France “without any protective devices that prevent interoperability”. Video hosting platforms such as Dailymotion and Kewego said they were “in phase with the idea of cooperating with the economic beneficiaries” although they “nevertheless were still seeking an agreement that would take into account the specific nature of their hosting activity”. The consumer defence association UFC - Que Choisir, for its part, denounced “the repressive escalation” of something that was “very harsh, potentially destructive of liberty, anti-economic, and contrary to digital history”. The French President has invited the signatory parties to draw up a report on the application of the agreement in six months, and has undertaken that “if it does not work well enough, steps will be taken to obtain results”. The necessary legislative and regulatory texts for implementing the solutions applied should be adopted early in 2008.

Accord pour le développement et la protection des œuvres et programmes culturels sur les nouveaux réseaux, 23 novembre 2007

http://www.culture.gouv.fr/culture/actualites/index-olivennes231107.htm

Agreement for the development and protection of cultural works and programmes on the new networks, 23 November 2007

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