[FR] Under Threat, HADOPI Defends its Achievements

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On 10 October 2013, the high authority for the broadcasting of works and the protection of rights on the Internet (Haute Autorité pour la Diffusion des Œuvres et la Protection des Droits sur Internet - HADOPI) presented the report of its activities in 2012-2013. This was of particular interest as the conclusions of the Lescure mission in May 2013 on Act II of the cultural exception recommended the transfer of its responsibilities to the audiovisual regulatory authority (Conseil Supérieur de l'Audiovisuel - CSA) (see IRIS 2013-6/19). During the Senate's examination of the bill on the independence of public-sector television in September there were even plans to validate the transfer immediately by means of an amendment. In the end, the Government appears to be waiting for this to be discussed in 2014 as part of a wide-ranging Act on creative work. At the time of presenting its activity report, HADOPI's president Marie-Françoise Marais recalled that the institution was "the first public authority dedicated to the protection of copyright and the circulation of works on the Internet. France is a pioneer in the field, and her choices are observed closely, both here and abroad". In just three years, the HADOPI believes it has reached maturity in carrying out its missions. Thus, with regard to the "graduated response", the president felt that the educational approach adopted had paid off, since just 60 cases had been put in the hands of the public prosecutors (as the "ultimate recourse"), whereas more than two million initial recommendations and more than 200 000 second recommendations had been sent out. The results were less decisive as a result of encouragement for the development of the legal offer, the HADOPI's other mission. 71 on-line services (including 43 which were currently valid) had received the "PUR" label (indicating that the offer being proposed respected creators' rights) since its creation by a Decree of 10 November 2010. Lastly, the role of regulator of the technical protection measures became reality last year, as two opinions were delivered by the HADOPI's college, one on interoperability (see IRIS 2013-5/27), and the other on the benefit of exceptions. A third request for an opinion was currently being investigated; it "should make it possible to re-state the question of the content of the exception for making a private copy of audiovisual programmes in a context of diversification and the multitude of means of accessing these programmes", Ms Marais announced.

The tools placed at the HADOPI's disposal by the 2009 Act and its implementing decrees "have demonstrated their limits", according to the annual report, the fourth section of which is devoted to proposals for improvements. Regarding its mission of encouraging the development of the legal offer, the institution

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proposes extending to three years the period of time for which the “PUR” label is granted, making the conditions for its renewal less stringent, and attaching the label to services rather than to offers, as is current practice. Regarding the protection of works, the HADOPI would like to be able to receive referrals directly from originators (at present, only the sworn approved agents designated by the professional defence bodies, the copyright collecting agencies and the CNC are authorised to do so). It would also like to see an extension from the current six months to one year of the period during which the public prosecutors may notify acts of counterfeiting to the Commission de protection des droits, and the HADOPI given responsibility for sending its recommendations direct to Internet users (the IAPs currently do this), including an indication of the content of the works to which they refer. Lastly, the HADOPI would like to be able to extend its power of regulation regarding technical protective measures to include technical information measures and all types of protected works. It also proposes to allow individuals and associations to refer cases to it, and to broaden its corresponding powers of action in order to meet consumers’ expectations. Pending a final decision on its fate, the HADOPI is therefore demonstrating that it intends to continue pursuing its missions. “In June 2014, the HADOPI will still be in existence!” was its president’s comment at the end of the presentation.

HADOPI, rapport d’activité 2012-2013

http://www.hadopi.fr/sites/default/files/page/pdf/HADOPI_RapportAnnuel_2013.pdf

HADOPI, Report of Activities in 2012-2013

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