[FR] HADOPI proposes better ways of combating piracy

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Amélie Blocman
Légipresse

France's high authority for the broadcasting of works and the protection of rights on the Internet (Haute Autorité pour la Diffusion des Œuvres and la Protection des Droits sur Internet - HADOPI) has presented its report on its activities for 2016-2017, a period which saw a change in the organisation's team and the establishment of a consolidated budget intended to direct it towards new areas of work. The report presents all the work and actions implemented over the period: the implementation of the graduated response procedure, the observation of lawful and unlawful use, the promotion of the legal offer, etc. It includes a number of proposals - some of which would require changes to regulations and legislation - intended to make its actions more effective and adapt them to reflect changes in practices. Peer-to-peer practices - the only ones covered by the graduated response procedure launched in 2010 - are continuing to lose ground, partly as a result of the procedure, whereas streaming and direct downloading are continuing to develop. Since the launch of the graduated response scheme, HADOPI has referred more than 2,000 cases to public prosecutors throughout the country, potentially for legal proceedings to be instigated. Of the 748 legal cases of which HADOPI was aware as at 31 October 2017, 80% involved criminal proceedings (189 sentences and 394 alternative measures).

From an international survey intended to serve as the basis for an ambitious policy on protecting copyright, HADOPI has learned that it is necessary: (i) to continue educating the public and to strengthen the awareness programme by tailoring more accurately communication messages to the target public or the gravity of individual behaviour infringing copyright, and by addressing not only the legal issue of observance of copyright law but all risks faced by Internet users; (ii) to carry out action jointly with the search engines to reduce the visibility of unlawful sites; (iii) to consider how to improve techniques for detecting sources of piracy; (iii) to expand, secure and better assess the charter scheme using a "follow the money" approach; (iv) to ensure a fairer sharing of value by encouraging and accompanying agreements on introducing content recognition technologies; (v) to define an effective public policy addressing problems arising from the procedures for blocking unlawful sites and their avatars.

In its report, HADOPI identifies three priorities. Firstly, reinforcing the discouragement of individual peer-to-peer practices by using the graduated response procedure. Beyond the significant development in the criminal law aspect of its action, HADOPI proposes a number of adjustments to regulations and

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legislation, including simplifying the graduated response procedure, indicating the title of illegally shared works in the recommendations sent to subscription holders, and extending the period during which the public prosecutor may refer cases of copyright infringement to the HADOPI. The second priority identified is the need to introduce a public regulation on the use of content recognition technologies. HADOPI would then be able to issue recommendations and if necessary act as mediator, observe and assess ways of implementing agreements between platforms and rights holders, and be given the role of regulating such agreements and serving as mediator in the event of disputes. The third priority consists of involving HADOPI in the fight against sites that infringe copyright on a massive scale. The organisation wants to continue its efforts to combat commercial infringers and is proposing a change in its resources so that it would be able to detect newly emerging unlawful practices at an early stage, investigate the new economic models of unlawful sites, and intervene as a third-party authority to achieve greater involvement on the part of intermediaries. The more ambitious legislative option could confirm HADOPI's role as an expert or trusted third party able (i) to report on whether sites are infringing copyright on a massive scale, both by monitoring charters and in litigation (with the power to take legal action), (ii) to monitor, assess, mediate and extend charters of good practices (chartes de bonne pratique), and (iii) to be mobilised against "mirror sites" by ensuring that they are identified and by promoting the agreement procedure in order to bring court decisions up to date.

Hadopi, Rapport annuel 2016-2017

https://www.hadopi.fr/sites/default/rapportannuel/HADOPI-Rapport-d-activite-2016-2017.pdf

HADOPI, Annual Report for 2016-2017

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