European Parliament: Report on illegal broadcasting of live sporting events

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On 19 May 2021, the European Parliament adopted a report with recommendations to the European Commission on the challenges of sports event organisers in the digital environment.

According to the Report, enforcement procedures concerning live broadcasts of sports events need to be as swift as possible, but the current legal framework for injunctions and for notice and takedown mechanisms does not always sufficiently guarantee an effective and timely enforcement of rights. Therefore, concrete measures should be adopted to adapt the current legal framework to these specific challenges. In particular, the Report calls for the removal of, or the disabling of access to, infringing live sport broadcasts by online intermediaries to be immediate or as fast as possible, and in any event no later than within 30 minutes of the receipt of the notification from rightsholders or from a certified trusted flagger regarding the existence of such illegal broadcast. While real-time takedown should be the objective pursued in cases of infringing live sports event broadcasts, any such measures must respect the general legal principle of not imposing a general obligation to monitor.

With regard to the cross-border enforcement of rights, the Report underlines that the general framework provided for by Union law is not applied uniformly at national level and that civil procedure and notice and takedown mechanisms differ from one Member State to another. Enforcement tools in the cross-border context lack efficiency, so further harmonisation of the procedures and remedies in the Union is needed to address, in the context of the Digital Services Act package and other potential legislative proposals the specific nature of live sports event broadcasts. The Report also stresses the challenges met by national enforcement agencies and authorities and underlines the importance of close collaboration and exchange of best practices between relevant authorities at Union level, national authorities and relevant actors.

Notice and action procedures should form the basis for measures addressing illegal content in the Union, but the current notice and takedown procedure does not allow for swift enforcement for “live” sports events. Therefore, a mechanism involving certified trusted flaggers should be set up. Moreover, providers of streaming servers and streaming platforms should implement specific takedown

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tools or measures, in order to remove or disable access to illegal live sports event broadcasts available on their service.

The Report also points to the existence of practices developed at national level, such as live injunctions and dynamic injunctions, that have proved to be a means of tackling piracy of sports event broadcasts more efficiently, and calls on the Commission to assess the impact and appropriateness of introducing injunction procedures aimed at allowing real-time disabling of access to, or removal of, illegal online live sports event content. Such procedures must not, however, lead to the arbitrary and excessive blocking of legal content. Safeguards are needed to ensure that the legal framework strikes the right balance between the need for efficiency of enforcement measures and the need to protect third party rights. The Report also calls on the Commission to take measures that make it easier for consumers to find legal means of accessing sports content online and stresses that liability for the illegal broadcasting of sports events rests with the providers of streams and platforms and does not lie with fans or consumers, who often unintentionally come across illegal online content and should be further informed on the legal options available.

Finally, the Report considers that the creation in Union law of a new right for sports event organisers will not provide a solution as regards the challenges they face that arise from a lack of effective and timely enforcement of their existing rights.

European Parliament resolution of 19 May 2021 with recommendations to the Commission on challenges of sports events organisers in the digital environment (2020/2073(INL))

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