[FR] ARCOM explains “legal offer” indexing mechanism

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The *Autorité de régulation de la communication audiovisuelle et numérique* (Regulatory Authority for Audiovisual and Digital Communication – ARCOM), as part of its role in promoting and developing the so-called “legal offer” (a list of websites that comply with copyright laws, see Article 331-12 of the French Intellectual Property Code), is encouraged to “develop tools aimed at strengthening the public visibility and indexing of the legal offer and to annually publish indicators listed under a decree.”

On 9 March 2022, ARCOM therefore adopted a mechanism for observing and indexing websites and platforms that are thought to be compliant with the copyright, neighbouring rights and audiovisual exploitation rights mentioned in Article L. 333-10 of the French Sports Code (see Official Gazette of 17 March 2022). This indexing process is designed to inform Internet users and professionals.

To this end, ARCOM observes online public communication services aimed at French audiences that provide access to protected works and objects. The indexing process takes place notably in the light of various observation elements described in the decision, in accordance with the “indicative list of criteria” method:

- indexing by other public bodies;

- the number of publicly accessible notification and withdrawal requests;

- the presence of legal notices, general terms and conditions of sale or use focusing on respect for copyright and, if appropriate, certain usage limitations linked in particular to technical protection measures;

- access to a secure payment system for paid services;

- the absence of a harmful environment (objectionable advertising, malware, etc.);

- the site’s own claim to be lawful and to use efficient notification systems.

According to the decision, the listed websites are also considered to be committed to complying with intellectual property rights and conducting a policy of

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remunerating the relevant sectors.

The list is published in a dedicated section of the ARCOM website.

A rightsholder, Internet user or service may contest the listing of one or more websites in writing, detailing the reasons why they should be delisted. After investigating, ARCOM decides whether the site should remain on the list. It can also delist a service if it no longer meets the conditions laid down or if it has been blocked under a court order.

In order to make this information more accessible, an extension for Internet browsers, known as “EOL” (Extension Offre Légale – Legal Offer Extension), has been launched. Once downloaded, this extension can inform Internet users, through a green logo displayed in the browser bar, that the site they are visiting is on ARCOM’s list of sites that appear to respect copyright, neighbouring rights and audiovisual exploitation rights.

Délibération n° 2022-06 du 9 mars 2022 sur l'activité de référencement de l'offre légale par l'ARCOM, JORF 17 mars 2022

https://www.legifrance.gouv.fr/download/pdf?id=X8mGWx2I2OoIrXexbOnP50OWC3f0_L_b8Yzlt5Y8PXg=

Decision no. 2022-06 of 9 March 2022 on the ARCOM's indexing of the legal offer, Official Gazette of 17 March 2022

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