



Illegal Retransmission of Live Broadcasts through Internet Streaming

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KEY OBJECTIVES / TOPICS:

1. Challenges faced by broadcasters and the entertainment sector;
2. How the rights of broadcasters are protected;
3. Common models for the illegal retransmission of live broadcasts through streaming;

4. Legislative approaches taken to combat illegal live streaming;
5. Legal remedies to combat Illegal live streaming;
6. Technical remedies to combat illegal live streaming;
7. Shortcomings in current legal and remedial frameworks; and
8. Unresolved legal, technical and operational issues and future opportunities.

INTRODUCTION:

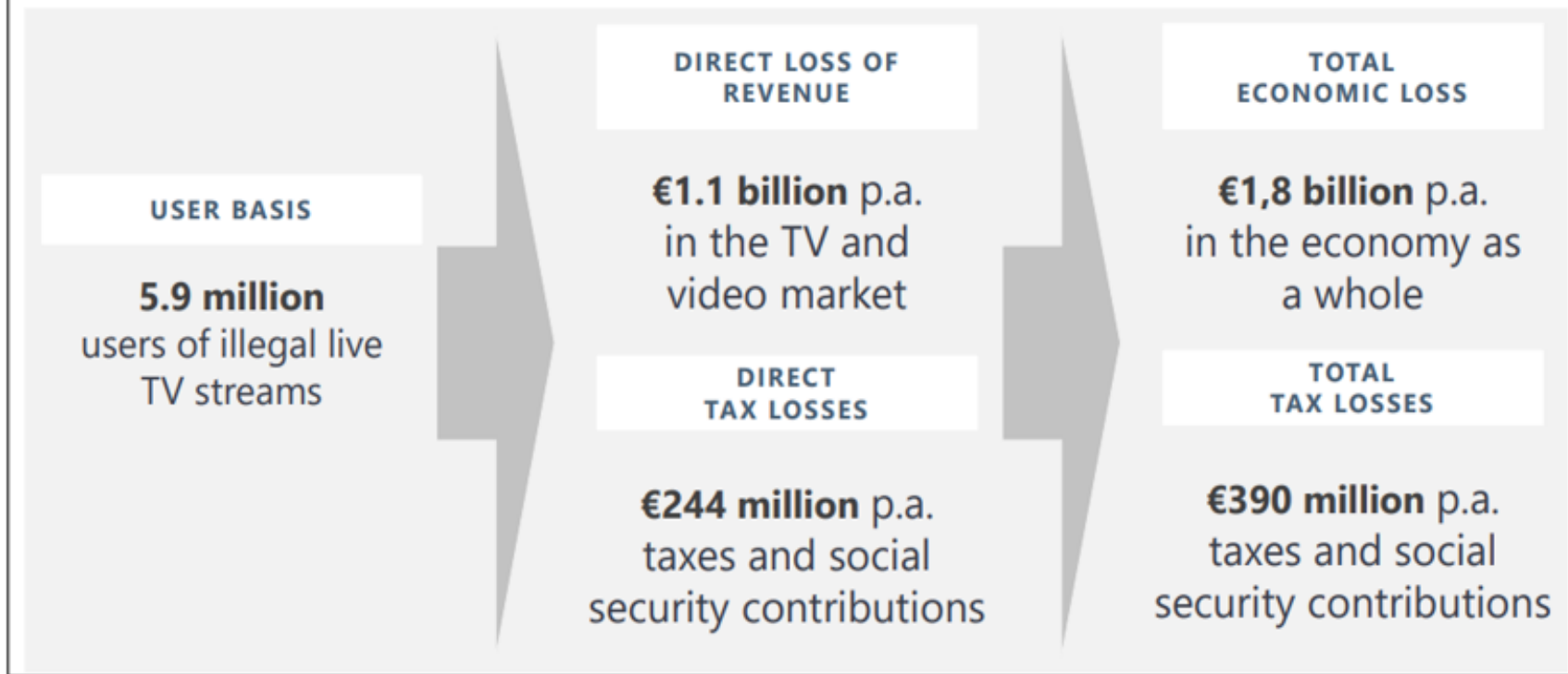
- Live streaming of live broadcasts has **two main implications:**
 1. It leads to substantial **financial losses** for content creators, event organizers, and broadcasters; and
 2. It **undermines the integrity** of creative works, challenging creators' exclusive rights to distribute and profit from their work.

1. CHALLENGES FACED BY BROADCASTERS AND THE ENTERTAINMENT SECTOR:

- The global sports industry is losing up to \$28 billion in potential revenue annually due to illegal live streaming.
- The French football industry loses nearly \$610 million each year due to illegal streaming of live sports events.
- The following data illustrates the extent of direct revenue loss caused by illegal live streams in Germany:



USER BASIS, LOSS OF REVENUE AND TAXES DUE TO THE USAGE OF ILLEGAL LIVE TV STREAMS PER YEAR, STATUS 2022



Data on Germany

Watch Live Footaball Match



LIVE

FOOTBALL



2. HOW BROADCASTERS' RIGHTS ARE PROTECTED:



1. Neighbouring Rights



2. 'Subject matter other than works'



3. Inclusive protection

3. COMMON PLATFORMS USED FOR THE ILLEGAL TRANSMISSION OF LIVE BROADCASTS:



1. Unicast Streaming



2. Multicast Streaming



3. User-generated Streaming



4. Virtual Private Networks

4. LEGISLATIVE APPROACHES:

FRANCE



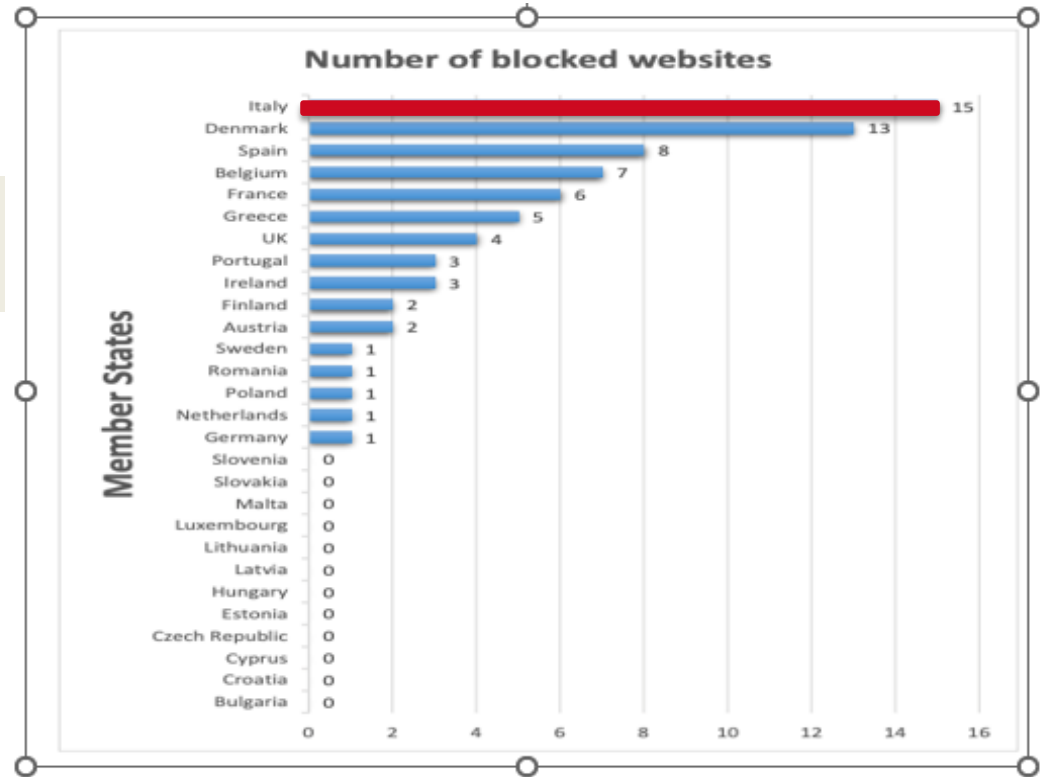
Article L.331-12 of the **Intellectual Property Code** regulates measures against the illicit retransmission of sports events and competitions.



ITALY



Resolution No.
189/23/CONS 2023



Source: Member States of copyright enforcement actions against studied infringing websites operating across the EU

CANADA



Online Streaming
Act 2023



USA



Protecting Lawful
Streaming Act 2020

CHINA



Chinese Copyright
Act 2020

5. LEGAL REMEDIES TO COMBAT ILLEGAL LIVE STREAMING:

SITE BLOCKING INJUNCTIONS



- In 2023, the EU Commission adopted a **recommendation** on combating online piracy of sports and other live events.
- The recommendation calls for:
 - a) Prompt **removal** of unauthorized retransmission
 - b) Issuance of **injunctions** of a “**dynamic nature**”
 - c) Paying particular attention to the need to respect **fundamental rights** when implementing live **blocking injunctions**.

DYNAMIC INJUNCTIONS:



- Italy - AGCOM (Resolution No.189/23/CONS)
- Denmark - Frederiksberg Court (LaLiga)
- Ireland – High Court (European Football Associations)

Target “mirror-websites”

PERMANENT INJUNCTIONS:



“A **permanent injunction** perpetually restrains the commission of an act by the defendant in order for the rights of the plaintiff to be protected”.

Kenya – High Court (MultiChoice)

LIVE BLOCKING INJUNCTIONS:



Granted to prevent or block the unauthorized live broadcasting or streaming of copyrighted content, typically in real time or with minimal delay.

BLANKET INJUNCTIONS:

Legal orders that proactively prevent the unauthorized live broadcasting of copyrighted content.

GRADUATED RESPONSE SCHEMES:

Also known as “three-strikes system”, these are strategies that governments and copyright enforcement agencies employ to combat illegal live streaming and other forms of online copyright infringement.

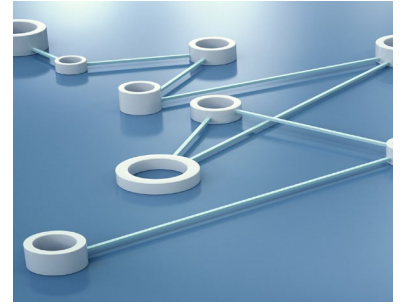


OTHER REMEDIES:

- Takedown notices
- Fines and Criminal Penalties
- Codes of Conduct and/or Memoranda of Understanding



6. TECHNICAL REMEDIES TO COMBAT LIVE STREAMING:



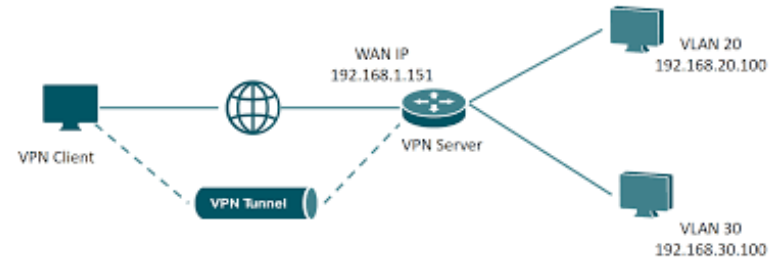
- **Geo-blocking** is a technology used to restrict access to online content based on the user's geographical location.
- **Geolocation** is a valuable tool in the effort to combat illegal live streaming.

- **Encryption** allows content owners (or, in the context of live broadcasts, content owners and broadcasters) to encode or obscure data to limit access to the intended audience.
- **Watermarking** serves as a powerful tool in the fight against illegal live streaming. The technology adds an invisible digital signature' to the content.

7. SHORTCOMINGS IN CURRENT LEGAL AND REMEDIAL FRAMEWORKS:

- Limited availability or application of live blocking injunctions.
- Limited scope and enforceability (recommendation)
- Blocking orders provided to ISPs involve significant costs
 - Canada: *Rogers Media Inc. et al. v. Doe 1 et al.*

- Limited effectiveness of takedown notices in the context of live P2P sharing
- Circumvention of geo-blocking technology.
- Low penalties for illegal streaming of live broadcasts.



8. UNRESOLVED ISSUES / FUTURE OPPORTUNITIES:

- The lack of a uniform legal framework, cross-border enforcement and international collaboration;
- A majority of blocking orders targeting ISPs rather than end users and infringers;
- The difficulty of identifying/removing content in real time;
- The inability of 'take down' notices to adequately combat illegal live streaming and the need for harsher penalties.

CONCLUSION:

