



# 2024-2029 MANIFESTO

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AUDIOVISUAL  
ANTI-PIRACY  
ALLIANCE



# WHO WE ARE

AAPA is the leading voice in Europe and beyond for companies dedicated to protecting audiovisual services and content. Our members include rights owners, broadcasters, security technology providers, and manufacturers of products that enable the delivery of secure audiovisual content.

Our mission is clear: we are committed to leading the charge against audiovisual piracy. Through effective advocacy, support for law enforcement, and strategic partnerships, we are a hub of vast knowledge of the challenges, technical measures, and opportunities that arise in the fight against piracy of audiovisual content.



## OUR POLICY PRIORITIES AT EU-LEVEL FOR 2024-2029



1. Introduce innovative data driven legislation to combat live content piracy in 2025
2. Promote the enforcement and expansion of the Digital Services Act to ensure that what is illegal offline is illegal online
3. Harmonize EU-level protection for audiovisual content to enable robust investment in original content and grassroots sports
4. Expand the reach of legislation to address piracy facilitated and engaged in by key entities overlooked by previous initiatives, including Content Delivery Networks (CDNs) and reverse proxies
5. Continuing to represent a unified voice on anti-piracy for intermediaries willing to engage towards the betterment of the online environment



# WHAT DO OUR SECTORS BRING TO THE EU AND WHAT DO WE LOSE THROUGH ONLINE PIRACY ALONE?



The sports and audiovisual sectors collectively contribute over 5% of the European Union's total Gross Domestic Product (GDP) and 5% of the continent's employment. These sectors are integral to the EU economy, fostering not only economic growth but also cultural and social cohesion.

According to data from the European Audiovisual Observatory<sup>1</sup>, expenditures by audiovisual services, including broadcasters and streaming platforms, amounted to €20.8 billion in 2022 for European content. Within this expenditure, original content constitutes 35% of the total spending by broadcasters, followed closely by sports rights and acquired programming, which account for 28% and 26%, respectively. Notably, sports rights represent the largest expenditure category for private broadcasters and have experienced a significantly faster growth rate compared to other programming categories.

These investments have direct implications for employment, taxable income, reinvestment in content, and grassroots sports development. However, a 2022 study conducted by AAPA<sup>2</sup> revealed that pay-TV operators incurred losses amounting to €3.21 billion in 2021 due to illicit IPTV piracy alone, with illegal operators' gains estimated at €1 billion – and this is only a fraction of a much bigger problem involving numerous different methods (the study does not include website or social media piracy, for example). In Germany, a study by Vaunet<sup>3</sup> examining the German market exclusively reported annual economic losses of €1.8 billion attributable to live piracy.

Despite operating within a highly competitive market regulated by an extensive framework of rules and guidelines, legitimate EU audiovisual players face significant challenges from illegal actors who profit by pirating premium content. The methodologies employed in these studies typically involve economic modeling and analysis of market data, underscoring the significant financial and social impacts of piracy.

The broader implications of piracy extend beyond immediate economic losses. They undermine the financial viability of legitimate services, reduce the quality and diversity of content available to consumers, and weaken the overall economic fabric by evading taxation and social contributions. This, notwithstanding the fact that piracy is a sophisticated enterprise carried out by highly organised criminals.

Consumers often have limited understanding of the personal risks linked to consumption of pirated content. Illegal websites have become a gateway for criminals to infiltrate financial accounts and steal money, lure consumers into sophisticated financial scams, and expose children to adult content. The 2022 AAPA study on Malware and Audiovisual Piracy<sup>4</sup> found that "The impact of these malware infections can result in identity theft and fraud for the consumer, but also, lateral movement and further infection on any corporate network that they are connected to, such as remote working at home through a Virtual Private Network (VPN)".

To mitigate these challenges, comprehensive support from political, legal, and administrative bodies is crucial. This includes enhanced legal frameworks to prosecute piracy, increased collaboration between industry stakeholders, and public awareness campaigns to reduce demand for pirated content. Without such support, the audiovisual sector will continue to face substantial obstacles, impeding its contribution to the EU economy and cultural landscape.

## 1 Introduce innovative data driven legislation to combat live content piracy in 2025 and meaningful non-compliance penalties

In 2021, pay-TV operators incurred losses amounting to €3.21 billion due to piracy, with estimated gains for illegal operators reaching €1 billion in the same year - and this is only a fraction of a much bigger problem involving numerous different methods. Consumers in the European Union and the UK face significant risks when accessing pirated websites, including heightened vulnerability to cyberattacks targeting their personal data and the installation of malware on their devices.

These estimates show that the harm is real and legislative action needs to be led by policy makers to create a fit for purpose European regime which could enable effective enforcement against online intermediaries that profit from enabling and amplifying piracy. The negotiation and enforcement of the Digital Services Act (DSA) and the adoption of the Recommendation on combatting piracy of live content show a strong willingness from the EU institutions to tackle the issue of online piracy. These measures have established a foundation for the 2024-2029 mandate, which could see the European Union position itself as a leader in the global fight against online piracy.

There are tools in the current EU legislative framework that can help but today's challenges for rightsowners revolve around the hugely varied interpretation and the lack of enforcement. For example, many online intermediaries make substantial money from piracy, often by not acting rapidly enough, in response to notices from rightsowners. Even more so for live rights, delay is as good as complete inaction. A new regulatory framework, built on the insights from the Recommendation and the transparency reports mandated by the DSA, should therefore consider the unique characteristics of live content. The European Commission should propose legislation which ensures near immediate take down of live content, at the latest in November 2025, at the end of the data-collection exercise jointly run by the EU Intellectual Property Office and European Commission. Such an approach would further enhance the EU's capability to effectively combat online piracy and protect both content creators and consumers

## 2 Strengthen the enforcement of the Digital Services Act to ensure that what is illegal offline is illegal online

The European Commission must prioritize the correct application and timely enforcement of the Digital Services Act (DSA) to safeguard legitimate content. It is imperative that the European Commission treats piracy with the same level of urgency as other systemic risks identified by the DSA. Digital Services Coordinators (DSCs) should diligently identify, and address issues related to the new trusted flagger regime. All players/ entities that fulfil the criteria prescribed by the DSA should be granted the trusted flagger status – this includes rightsowners and their representatives, such as AAPA members. Comprehensive reviews should incorporate feedback from business users to ensure practical and effective implementation. This is where AAPA can be a trusted interlocutor for the European Institutions, standing prepared to share all the expertise gathered by our members in their day in, day out, in the fight against online piracy.

Despite legislative progress within the EU, the DSA currently lacks sufficient provisions for robust Know Your Business Customer (KYBC) measures, which are essential for entities involved in the distribution of pirated content. This deficiency has been underscored by the European Union Intellectual Property Office (EUIPO) in their 2023 Discussion Paper on the piracy of live content. To avoid abuses, the notion of "undue delay" or "with priority" must also be clarified as meaning "near immediate" when it comes to notice-and-take down under the Trusted Flagger provision. Addressing these gaps is crucial to fortify the EU's regulatory framework against online piracy.



### 3 Harmonize EU-level protection for audiovisual content to robust investment in original content and grassroots sports

AAPA members and the EUIPO took note of the diverse regimes, albeit legal or administrative in nature, which have emerged at EU Member State level in various attempts to fight online piracy. Piracy is a global phenomenon, which requires a robust and coordinated approach. If a crucial region, such as the EU, has divergent and diverse means of fighting this type of illegal content, this decreases the competitiveness of European audiovisual offers.

We do not advocate for a reopening of the Directive on the Enforcement of Intellectual Property Rights (IPRED). Measures, procedures, and remedies provided by IPRED, have been completed with a series of important legislative and non-legislative measures. However, despite the Commission's efforts to encourage Member States to effectively implement IPRED, the Directive is not uniformly applied. Our members have encountered challenges in utilizing evidence when exercising their rights to information and pursuing legal action or seeking injunctions in cross-border situations. This occurs when the judicial authority is in their country of establishment but the alleged infringer or intermediary is incorporated or resides in another Member State, or when the judicial authority is in another EU Member State altogether.

This patchwork of protection makes the European market quite unpredictable, hampering our members' ability to securely reinvest in audiovisual and sports content.

The EU should also cast a watchful eye on the implementation of Article 17 of the Copyright in the Digital Single Market Directive. The EU should ensure that the addressees of the Article are in full compliance with its obligations across the EU.

Another area that has been emerging as a future debate point is the development of AI technologies. Whilst the EU has and is continuing to lead the way in regulating this emergent area, the AI Act should be adequately and robustly implemented and enforced. The EU should avoid creating safe havens for AI developers to use rightholder content with impunity.

Finally, a powerful tool in protection of rights is Article 8(3) of Copyright in the Information Society Directive (InfoSoc) requiring Member States to ensure that rightholders can apply for an injunction against intermediaries whose services are used to infringe copyright. The statutory test set out in this article is not complicated or controversial, but the discretionary element afforded to Member States and their courts has led to divergent regimes of relief. Rightholders would benefit from a levelled playing field and a more consistent application across the Union.



<sup>1</sup> <https://rm.coe.int/investments-in-original-european-content-2012-2022-analysis-november-2/1680ad4699>

<sup>2</sup> <https://www.aapa.eu/illicit-iptv-in-europe-an-aapa-economic-report>

<sup>3</sup> <https://vau.net/wp-content/uploads/2023/01/VAUNET-study-on-TV-piracy-2022-2023-25.01.2023.pdf>

### 4 Tailor solutions to address piracy issues for key entities overlooked by previous legislation, including Content Delivery Networks (CDNs) and reverse proxies

Hosting services offering live streams of premium television content, including live sporting, are based in the EU and UK and fail to adequately respond (or respond at all) to take down notices. IPTV services and devices providing illegal access to TV services; cloud providers/services that allow users to unlawfully upload content are not adequately addressed neither in the IPRED nor in the DSA framework. The means (take down notices in the DSA) and legal framework (European IPR enforcement framework) cannot be considered as a sufficient response to the challenges we face.

The monitoring exercise currently conducted by the EUIPO in the framework of the Recommendation against piracy of live content could provide the Commission with a realistic overview of the proportion of notices, the effectiveness of such notices, the rate of errors and others. It will aid the legislative arm of the EU to assess the dimension of piracy at the EU level, the level of collaborative engagement that exists between intermediaries and rightholders. All these elements should be conducive to a firm decision that EU Regulation is the only solution to address all issues, including the lack of harmonisation that these directives have created in the internal market.

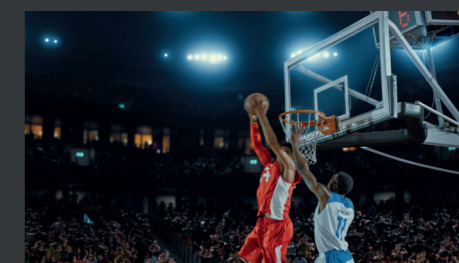
Per codification of existing CJEU case-law that injunctive relief under Article 8.3 Info Soc Directive is available against all intermediaries whose services are used to infringe intellectual property rights, including (but not limited to) payment providers, advertising companies, search engines, Internet browsers, VPN (Virtual Private Network) providers, alternative DNS resolvers and domain registrars. This should be reflected in any recommendations related to the enforcement of IPRED.

### 5 Continue to represent a unified voice against anti-piracy with intermediaries willing to engage towards the betterment of the online environment

AAPA has established itself as a valued partner for various intermediaries seeking to enhance safety and protect intellectual property rights in the online environment.

In addition to promoting necessary policy measures to combat online piracy, we are dedicated to fostering productive relationships with intermediaries including internet service providers, hosting providers, domain name system ("DNS") providers, content delivery networks, payment processors, social networks, and search engines.

The challenges faced by AAPA members in addressing online piracy are not always apparent to online intermediaries. Therefore, we are unwavering in our commitment to ongoing bilateral discussions with online intermediaries to sustain the successful collaboration AAPA has cultivated over the years with key stakeholders in the fight against online piracy.



<sup>4</sup> <https://www.aapa.eu/study-on-malware-and-audiovisual-piracy-highlights-significant-risks-to-european-consumers>

<sup>5</sup> [https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document\\_library/observatory/documents/reports/2023\\_Live\\_Event\\_Piracy/2023\\_Live\\_Event\\_Piracy\\_Discussion\\_Paper\\_FullR\\_en.pdf](https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2023_Live_Event_Piracy/2023_Live_Event_Piracy_Discussion_Paper_FullR_en.pdf)

