

**EFFECTIVENESS OF
REPORTING
AUDIOVISUAL CONTENT
INFRIGEMENTS**

REPORT



JANUARY 2024

Foreword

The year 2024 could be very special in terms of raising and standardizing the effectiveness of intellectual property protection mechanisms used in Europe. Indeed, intensive discussions are underway at the European level on the subject of Internet providers blocking access to illegal sports broadcasts, and the first member states have already implemented mechanisms to this end. This demonstrates a growing awareness of the value of intellectual property, not only socially and culturally, but also economically. Losses resulting from theft of audiovisual content and its illegal distribution remain high in many European countries; according to Deloitte's 2023 data, in Poland the scale of consumption of TV content from illegal sources



exceeds the value of PLN 7 billion a year. Over the course of several months, the European Commission has published a series of documents with recommendations on the “live blocking” mechanism, and throughout 2024, studies will continue in all member countries verifying the effectiveness of soft law in this regard. This is a challenge because of the wide variation among European countries in the level of intellectual property protection or the mechanisms in place to block access to illegal content. This report is an attempt to grasp the Polish reality on selected issues that are the subject of analysis by the European Commission. I hope it will help to better understand the scale of the challenges we face and to develop optimal solutions, drawing on the solid experience of other European countries, but adapted to Polish specificity.

Teresa Wierzbowska
President of the Signal Association

About the survey

In October 2023, the Signal Association conducted a survey among Poland's largest audiovisual content providers to understand selected mechanisms and the scale of unauthorized distribution of materials. The surveyed entities included: Canal+, Polsat, TVN and TVP. The data collected covered the period from September 2022 to August 2023. With a well-chosen methodology, including key broadcasters and a long measurement period, it was possible to analyze the phenomena in question. However, it should be noted that the survey did not cover the entire ecosystem of AV content providers, only a significant sample of it, so the scale of the phenomena described was only outlined.

The survey is an attempt to capture at market scale the key issues under scrutiny by the European Commission and EUIPO in 2024 among all member countries, both among administrations, individual rights holders and individual platforms. The purpose of the three-wave survey conducted by the EC is to verify how effective the soft law solutions issued by the EC are in this regard. In 2021, the Commission issued a Resolution indicating the need to block illegal sports broadcasts within a maximum of 30 minutes (live blocking). And in 2023, an EC Communiqué was released pointing out the key role of intermediaries in stopping illegal content distribution. The EC survey focuses on live broadcasts and platform reactions. From this point of view, this report covers a broader scope of the issue, attempting to also capture issues of other types of audiovisual content infringement (not just live broadcasts) and other types of sites that distribute content in an unauthorized manner (not just platforms). With a country like Poland, where there are no methods of blocking access to piracy sites such as web blocking or dynamic blocking, known from other European countries, omitting such important areas would give too partial data to draw conclusions about the condition of the Polish market.

Number of infringements

The subject of intellectual property rights protection to distribution during the period under review was 2155 titles, which included both VOD materials (accounting for just over three-quarters of this pool) and live broadcast events. From September 2022 to August 2023, more than 6.1 million distribution infringements were registered. These mainly involved VOD materials and accounted for 99.8% of cases. This means that, on average, each of these materials was distributed illegally more than 3,600 times per year, which amounts to more than 300 cases per month and 10 per day per title. It is worth noting at this point that the data refers only to a few selected rights holders who provided data for the survey, so the results do not show the entire scale of the phenomenon, but only the mechanisms.

**6.1
mil.**

**infringements of intellectual property
rights to distribution annually**

However, as the data shows, the number of live broadcast infringements represents a negligible fraction of the illegal content distribution phenomenon. It should be taken into account that the costliness of producing live broadcast content and the scale of losses in the event of the theft of such a signal is many times greater than for VOD content, which requires a special approach. This is relevant to the European Commission's consultation, which focuses on responding to the illegal distribution of AV content. Indeed, the subject of special concern for EU regulators is the protection of live sporting events, infringements of which, from Poland's perspective, are the tip of the iceberg (accounting for 0.13%), and protection mechanisms in other distribution models and against other types of content than sports are neglected in current efforts.

This is because, from an European perspective, the new live blocking regulations are intended to be complementary to the mechanisms already in place for blocking pirate sites.

In the case of countries such as Poland, it is necessary to take a broader perspective, and thus implement comprehensive solutions that are appropriate not only to live broadcasts, but also to infringements in the VOD model.

Number of infringements detected by type

	sports content		other content	
	in thou.	% of total	in thou.	% of total
VOD (streaming and files)	7.2	0.12%	6091.3	99.72%
Live, broadcasts	8.1	0.13%	1.6	0.03%

Mechanisms for reporting infringements

In addition to analyzing infringements in terms of content types, the object of the survey was to find out the scale of the phenomenon by the types of sites that commit these infringements. The key division includes two types of entities:

- those that do not themselves act with the intention of stealing content (these could be, for example, platforms on which Internet users themselves provide AV content),
- so-called piracy sites, whose operating model is designed to profit from the illegal distribution of content.

As the data shows, the former generally cooperate with material owners. They have tools designed to handle reported infringements in the form of automated systems or non-automated ones – forms and dedicated email addresses. The collaboration is by far dominated by the non-automated model, which covered 88% of reports to platforms during the period under review. However, this cooperation is not fully effective – about one-third of the reports (34%) are so-called "illusory reports," as the content – despite its removal – reappears in places from which it has already been taken down. This is due to the fact that the N&TD (notice and take down) mechanism currently in place in Poland does not result in blocking the release of this content again and is limited to a one-time action only. More effective in this regard is the NSD (notice and stay down) mechanism – included in the Copyright Directive as a response by the European regulator to an analysis of the limited effectiveness of the N&TD mechanism – but as of the date of publication of this report it has not lived to see implementation in Poland.

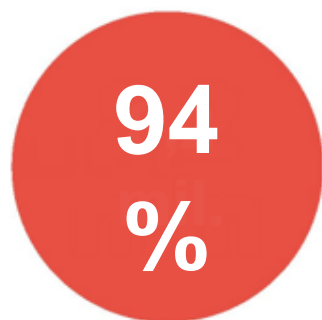
A red circle with a white outline. Inside the circle, the text '> 8.2 mil.' is written in white. The '>' is positioned to the left of '8.2', and 'mil.' is on the line below '8.2'.

**reports of infringements of intellectual property rights have been directed to piracy sites.
That's 99% of all cases.**

A critical mass (more than 8.2 million) of reports were those sent to piracy sites, which are intentionally run to profit from illegal content distribution. That's 99% of all cases. Almost all such reports, with few exceptions, were sent via a non-automated form. Among them, as many as 70% are the aforementioned problematic illusory reports (nearly 6 million cases). With this type of sites, the automated reporting mechanism is virtually non-existent. There are also some sites that do not offer the possibility of submitting reports at all (no forms, contact details, etc.). For this reason, nearly 1,600 infringements were not reported at all. In both cases – both with platforms and piracy sites – 58% were successful reports.

Response time to report

The time it takes for reports to produce the intended result is a key dimension of the effectiveness of the actions taken. During the period under review, for VOD materials, it was up to 24 hours for most reports. However, the percentage ranged from 73% to 85% depending on the recipient (platforms vs. piracy sites) and the method of reporting (automated system vs. other form).



reports of infringements of intellectual property rights for live events are ineffective.

The results were considerably worse for live televised events. For this type of content, it is crucial that the response to the report yields a result while the content is still being broadcast. Unfortunately, only 5% of reports directed to piracy sites (which, as noted earlier, represent a critical mass of the phenomenon) were responded to within the first 30 minutes of the report, and an additional 1% within the remaining transmission time. This means that 94% of reports were not responded to in a time frame that makes any sense at all for live events.

Key findings

Analyzing the above data in relation to the European Commission's efforts to analyze the response to reports of infringements, it should be noted that:

- The European Commission is focusing only on live broadcasts in its 2024 survey. In the Polish market, they account for 0.13% of recorded cases of audiovisual content infringement, which is due not so much to the low scale of infringement against live broadcasts, but to the lack of effective protection against other content distribution models like VOD;
- The European Commission is focusing on sports content while omitting other types of content from its current analysis;
- The European Commission assumes that sports content is infringed in the "live" model, while almost as many infringements have been recorded for VOD content appearing almost concurrently with the broadcast and also being a source of loss;
- The European Commission is focusing on the cooperation of the rights holders with the platforms, while 99% of the infringement reports in the year under review were directed not to the platforms, but to the piracy sites.

As can be seen from the above conclusions, one should be cautious about the data to be collected in the survey prepared by the European Commission, as they refer to a specific part of the phenomenon of illegal distribution of audiovisual content in Poland. Therefore, it is impossible on the basis of information concerning such a narrow portion of the piracy phenomenon to draw conclusions relevant to the entire issue faced by rights holders in Poland. It is necessary to develop a comprehensive mechanism in Poland along the lines of the best European solutions, which will help protect copyright content by blocking access to sites illegally distributing content. Such a mechanism should cover both cases of illegal sports broadcasts and any AV content offered without authorization and at a loss to rights holders and the state budget.

About the Signal Association

The Signal Association works to promote respect for intellectual property, the rights of broadcasters, distributors, licensors and viewers of television programs and other multimedia content. It was established in 2001. It includes leading media and telecommunications companies and experts.

The main area of the Association's activities are broad educational initiatives, research and efforts to improve the process of enforcing intellectual property rights. For years, it has been providing large-scale, unique training courses and workshops on intellectual property protection and the fight against copyright infringement for representatives of law enforcement agencies, including police officers from the Economic Crime Department, prosecutors' offices and police schools, as well as workshops for representatives of member companies. Within the framework of promoting the idea of intellectual property protection, the Association initiates and conducts educational campaigns, prepares reports, studies, analyses and positions, and participates in the legislative process of important legal acts for the economy.

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