

PRESS RELEASE

Publication of the second report by CSPLA, Hadopi and CNC on content recognition tools on digital sharing platforms: proposals for the implementation of Article 17 of the European Copyright Directive

Translation provided for information only - The French version is authoritative

Ahead of the implementation of new copyright rules applicable to digital sharing platforms (YouTube, Facebook, etc.), under article 17 of European Directive 2019/790 on copyright, the joint mission of the Higher Council for Literary and Artistic Property (CSPLA), the High Authority for the Dissemination of Works and the Protection of Rights on the Internet (Hadopi) and the National Center for Cinema and Animated Image (CNC) makes several proposals to European authorities and to the French legislator. This report is presented in the context of the publication, in the coming weeks, of some guidance on this subject by the European Commission and the transposition of the Copyright Directive in France by a government ordinance currently in preparation.

This report, released today, highlights the role that automatic content recognition tools – already deployed on the most important platforms – will have to play. It specifies the modalities of intervention of these preventive tools, which are essential to the protection of copyright, and describes the conditions required to find the proper balance between this right and its exceptions, as well as freedom of expression, the respect of which can and must be assured without paralyzing the operation of automatic tools. The report pleads for a careful reading of the text of the directive and gives the regulator the role of guarantor of the balance to be established between the rights of the various stakeholders: users, copyright holders and platforms. Only such a reading, which makes room for the existing technological tools, will allow the directive to produce all its effects, making thus legal content more widely available for the benefit of all.

The proposals presented in the report are in line with this logic, calling for the development of the transparency of practices and the accountability of all actors: inclusion in the law of the benefit of exceptions, rapid and efficient handling of complaints, definition of the role of the regulator, algorithmic transparency regarding processes implemented by the platforms and management rules set up by rights holders, fine-tuning of the implementation of the directive in the various fields, including image, writing, etc.

The three institutions had already jointly published in 2020 a report entitled "*Towards more effectiveness of copyright law on online content sharing platforms: overview of content recognition tools and possible ways forward*". This previous study was, and remains, internationally, the most comprehensive, synthetic and independent study on recognition tools. It concluded that such instruments were really effective and, while setting out points of attention regarding their implementation, identified the avenues to be considered so that they can fully play their role under Article 17 of the directive.

As a reminder, about article 17 (ex article 13) of the European directive on copyright of April 17, 2019: this article provides that, in the future, in order not to engage their liability on copyright grounds for the unauthorized content to which they give access, sharing platforms will have to reach remuneration agreements with rights holders or, failing that, make their best efforts not to give access to such content, or remove it. The notion of best efforts therefore gives crucial importance to content recognition technologies, which already exist for certain content on several platforms (in particular on YouTube, Facebook and Dailymotion in relation to musical and audiovisual works) and which are intended to develop as well as to improve. The directive must be transposed by the member states before June 7, 2021 and the European Commission is to make public in the coming weeks some guidance on how to implement this piece of legislation.

Analyzes and recommendations contained in this report commit only their authors and do not constitute an official position taken by CSPLA or the French Ministry of Culture.

*The **Higher Council for Literary and Artistic Property (CSPLA)**, an advisory body placed under the French Minister of Culture and bringing together all the stakeholders of copyright in France, was represented for this report by Mr. Jean-Philippe Mochon, member of the Higher Council, and Mr. Alexis Goin, rapporteur.*

*The **High Authority for the Dissemination of Works and the Protection of Rights on the Internet (Hadopi)**, an independent public authority created by law to ensure respect for copyright, encourage legal uses, develop the observation of lawful and illegal uses of cultural works on the Internet and ensure the protection of exceptions, brought to the mission its rich expertise on uses and technologies.*

*The **National Center for Cinema and Animated Image (CNC)**, a public entity that plays a central role in the life and development of cinema, audiovisual industry and video games in France, has contributed to the mission through all of its expertise, particularly in light of the important agreement concluded under its aegis in 2017 between ALPA, representing audiovisual rights holders, and Google.*

Contacts:

- CSPLA: Marion Estivalèzes – secretary
+33 1 40 15 38 73 - cspla@culture.gouv.fr
- Hadopi: Caroline Cesbron
+33 1 42 18 39 63 - presse@hadopi.fr
- CNC: cnc-servicepresse@cnc.fr