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Public consultation on the evaluation and modernisation of the legal framework for the enforcement of intellectual property rights: Member States

Fields marked with * are mandatory.

Objectives and General Information

The views expressed in this public consultation document may not be interpreted as stating an official position of the European Commission.

You are invited to read the privacy statement for information on how your personal data and contribution will be dealt with.

Please complete this section of the public consultation before moving to other sections.

Respondents with disabilities can request the questionnaire in .docx format and send their replies in email to the following address: GROW-IPRCONSULTATION@ec.europa.eu.

If you are an association representing several other organisations and intend to gather the views of your members by circulating the questionnaire to them, please send us a request in email and we will send you the questionnaire in .docx format. However, we ask you to introduce the aggregated answers into EU Survey. In such cases we will not consider answers submitted in other channels than EU Survey.

If you want to submit position papers or other information in addition to the information you share with the Commission in EU Survey, please send them to GROW-IPRCONSULTATION@ec.europa.eu and make reference to the "Case Id" displayed after you have concluded the online questionnaire. This helps the Commission to properly identify your contribution.

Given the volume of this consultation, you may wish to download a PDF version before responding to the survey online.

* Please enter your name/organisation and contact details (address, e-mail, website, phone)

The Danish Government

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Contant person in relation to this consultation:

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*Is your organisation registered in the Transparency Register of the European Commission and the European Parliament?

In the interests of transparency, organisations (including, for example, NGOs, trade associations and commercial enterprises) are invited to provide the public with relevant information about themselves by registering in the Interest Representative Register and subscribing to its Code of Conduct.

If you are a registered organisation, please indicate your Register ID number. Your contribution will then be considered as representing the views of your organisation.

If your organisation is not registered, you have the opportunity to register now. Then return to this page to submit your contribution as a registered organisation.

Submissions from organisations that choose not to register will be treated as 'individual contributions' unless they are recognized as representative stakeholders via relevant Treaty Provisions.

- Yes
- O No
- Non-applicable

*In the interests of transparency, your contribution will be published on the Commission's website. How do you want it to appear?

- Under the name supplied? (I consent to the publication of all the information in my contribution, and I declare that none of it is subject to copyright restrictions that would prevent publication.)
- Anonymously? (I consent to the publication of all the information in my contribution except my name/the name of my organisation, and I declare that none of it is subject to copyright restrictions that would prevent publication).
- No publication your answer will not be published and in principle will not be considered.

"Please note that your answers may be subject to a request for public access to documents under Regulation (EC) No 1049/2001."

A. Identification

_	national authority you are r or authority responsible for If	
National IP office	• •	Tremore mone policy
	y responsible for IPR enforce	ment
	ty responsible for IPR enforce	
Other law enforce	•	and the same of th
Other	omone additionly	
- 01.101		
_	e country of establishment o	of the authority:
Austria	Italy	
Belgium	Latvia	
Bulgaria	Lithuania	
Cyprus	Luxembourg	
Croatia	Malta	
Czech Republic	Netherlands	
Denmark	Poland	
Estonia	Portugal	
Finland	Romania	
France	Slovakia	
Germany	Slovenia	
Greece	Spain	
Hungary	Sweden	
Ireland	United Kingdom	
Other		
* Your authority is re	esponsible for the following	IPR:
Copyright		Rights related to copyright
Community trade	emark rights	Community design rights
National tradema	•	National design rights
• (cluding rights derived from protection certificates)	Geographical indications
Rights of the cre semiconductor p	eator of the topographies of a	Plant variety rights
	of a database maker	Trade names (in so far as these are protected as exclusive property rights in the national law concerned)
Utility model right	nts	Other
All IPR		
B. Impact of IP in	nfringing goods and s	services
*From your experie years?	nce, how did the occurrence	e of IPR infringements develop over last 10
Decreased		
Increased		

Unch	nanged
------	--------

Don't know

* Please specify:

1500 character(s) maximum

The statistics from the Customs authorities' and a number of reports published by eg the European Observatory on Infringements of Intellectual Property Rights points to the conclusion that IPR infringements have increased over the last 10 years. At the same time, it is noted that the number of IPR court cases and injunction cases in Denmark have been stable over the last 10 years.

What is your assessment of the impact of IP infringements on government and society?

	Very high	High	Medium	Low	No impact
*Loss in tax revenues	0	•	0	0	0
*Health	0	0	•	0	0
*Safety	0	0	•	0	0
*SME	•	0	0	0	0
*Competitiveness	•	0	0	0	0
*Other	0	0	0	0	•

C. Functioning of key provisions of Directive 2004/48/EC on the enforcement of intellectual property rights

This section aims to provide the Commission with stakeholder' views, opinions and information about the functioning of the overall enforcement framework and of key provisions of IPRED.

C.1. Overall functioning of the enforcement framework

1500 character(s) maximum

*Do you think that the existing rules have helped effectively in protecting IP and preventing IP infringements?
Yes
O No
No opinion
⋆ Please explain:

The minimum directive has secured a certain level for the IPR enforcement framework across the EU. However, the member states are interpreting the provisions somewhat differently. Training seminars (with workshops and cases) bringing judges from different member states together may be helpful in order to achieve a more uniform interpretation of the directive across the member states. The European Observatory on Infringement of Intellectual Property rights could be a good forum for such seminars.

C.2. Measures, procedures and remedies provided for by IPRED

Responses to this section should be based on the overall experience with the measures, procedures and remedies provided for by IPRED as implemented and applied in your jurisdiction. If appropriate please specify in your response, to the extent possible, particular national issues or practices.

C.2.1. Evidence (Articles 6 and 7)

* Does IPRED provide for effective means of presenting, obtaining and preserving evidence?
Yes
O No
No opinion
Please explain:
1500 character(s) maximum
*In view of your experience with the implementation and application of the rules for having access to and preserving evidence do you see a need to adjust the application of that measure, in particular with regard to preserving evidence in the digital environment? Yes
Yes No
No opinion
C.2.2. Right of information (Article 8)
★ C.4.1. Do you have information on the number of request for information filed in your

*What are the requirements for a request for information to be proportionate and justified when exercising the right of information against an infringer?

jurisdiction in cases of alleged infringement of IPR and on the length of the procedure?

1500 character(s) maximum

YesNo

According to the Danish Administration of Justice Act (AJA), Section 306 (3), the court partly or wholly refuses a request for information if it is assumed

that providing the information would cause the one to whom the request relates or others, injury or disadvantage which would be disproportionate to the claimant's interest in obtaining the information.

* What are the requirements for a request for information to be proportionate and justified when exercising this right of information against another person (e.g. an intermediary)?

1500 character(s) maximum

According to AJA, Section 306 (1), the right of information applies not only against a counterparty but also third parties. Hence, the requirements for a request for information to be proportionate and justified when exercising the right of information against another person (e.g. an intermediary) are the same as explained above.

*How do you define "commercial scale" in your jurisdiction?

1500 character(s) maximum

The Danish definition of commercial scale translates into "when part of a business activity". The threshold is low, as it does not take much to fall within this definition.

*What is the scope of the assessment of the admissibility and the merits of a request for information?

1500 character(s) maximum

The court carries out a concrete assessment. The court partly or wholly refuses the request if the request for information is not proportionate and justified. It is a precondition to admit a request for information that an infringement must be assumed to exist. Hence, it may be necessary for the court to examine this issue under a partial decision, cf. AJA Section 253.

*What is the burden of proof and evidence required to demonstrate the existence of an infringement?

1500 character(s) maximum

Unless otherwise is stipulated by law there is a free assessment of evidence under Danish law. However, an infringement, as mentioned in AJA, section 653 (2), must be ascertained to exist in order to obtain information under AJA section 306.

*What are the procedural safeguards in your jurisdiction to ensure the proportionate use, the relevance of the information for the identification of an infringer and the accuracy and correctness of the identification of the infringer, in particular when information is to be provided by a third person, for example an intermediary service provider, for such purposes?

1500 character(s) maximum

According to AJA, Section 307 (2), the counterparty and the one to whom the request relates have the right to comment on the request before the court makes its decision.

To your knowledge what are the reasons for not obtaining the requested information?

	Very relevant	Relevant	Less relevant	Not relevant
Unjustified/disproportionate request	0	0	•	0
Protection of confidentiality of information	•	0	0	0
Protection of rights to respect for private life and protection of personal data	0	0	•	0
Information not available (anymore)	0	0	•	0
Information provided in the request inaccurate	0	•	0	0
Other	0	0	0	0

To your knowledge what are the reasons for not making use of the right of information?

	Very relevant	Relevant	Less relevant	Not relevant
Low probability of success	0	0	•	0
No judgment on the merits yet	•	0	0	0
Length of procedure	0	0	•	0
Court fee	0	0	•	0
Lawyer's fee and other costs related to the application	0	•	0	0
Defendant established in another Member State	0	0	•	0
Court in another Member State	0	•	0	0
Applicable law of another Member State	0	0	•	0
Other	0	0	0	0

,	In view of your experience with the implementation and application of the right of information
	do you think that the existing rules have helped effectively in protecting IP and preventing IPR
	infringements?

0	Yes

O No

No opinion

⋆ Please explain:

1500 character(s) maximum

It is noted that the provisions on the right of information are rarely used in Denmark. Instead, the Danish industry generally seems to prefer to use the measures for preserving evidence (provided in article 7 in the enforcement directive).

★ In view of your experience with the implementation and application of the right of informat	ion
do you see a need to adjust the provisions for the application of that measure?	

- Yes
- No
- No opinion

⋆ Please explain:

1500 character(s) maximum

_

- *Do you see a need to clarify the criteria used to reconcile the requirements of the right to respect for private life/protection of personal data on the one hand and an effective remedy on the other hand when assessing requests for disclosure of personal data for the purpose of initiating judicial proceedings?
 - Yes
 - No
 - No opinion

⋆ Please explain:

1500 character(s) maximum

There is no need for such clarification in relation to Denmark. If the situation is different in other member states, if may be an idea to provide case examples/workshops for judges.

C.2.3. Procedures and courts, damages and legal costs (Articles 3, 13 and 14)

- *Do you have information on the number of legal action filed in your jurisdiction in cases of alleged infringement of IPR and on the length of proceedings?
 - Yes
 - O No
- * Please provide detail and reference:

1500 character(s) maximum

Overview of trademark and patent cases received by the Danish Maritime and Commercial Court from 2011-2015:

Cases received in:	
2011: 124 trademark cases and 13 patent cases	
2012: 92 trademark cases and 16 patent cases	
2013: 89 trademark cases and 19 patent cases	
2014: 92 trademark cases and 14 patent cases	
2015: 116 trademark cases and 17 patent cases	

To your knowledge what are the reasons for taking an infringer to court?

	Very relevant	Relevant	Less relevant	Not relevant
Damages	0	0	•	0
Interlocutory injunction	•	0	0	0
Permanent injunction	•	0	0	0
Other	0	•	0	0

⋆ Please specify:

500 character(s) maximum

Another motivation could be to encourage a settlement.

An additional motivation can be to obtain a judgment, which can show other potential infringers that the right owner will not accept IPR infringements, but will instead fight back rigorously through IPR enforcement actions.

- *To your knowledge are there problems when taking legal action in a cross-border situation (judicial authority in your jurisdiction and infringer incorporated or resident in another Member State and/or judicial authority of another EU Member State)?
 - Yes
 - No
 - Don't know

To your knowledge what are the reasons for not seeking civil redress?

	Very relevant	Relevant	Less relevant	Not relevant
High court fees	0	0	•	0
High lawyer's fees and other costs related to litigation	•	0	0	0
Length of procedure	0	•	0	0
Low probability of obtaining appropriate compensation for the damages suffered	•	0	0	0

Low probability of obtaining appropriate compensation of legal costs and other expenses	•	0	•	0
Low probability of obtaining a provisional and/or permanent injunction	0	0	•	0
Low probability of enforcing the judgment	0	•	0	0
Court in another Member State	0	•	0	0
Risk of IPR being invalidated	0	0	•	0
Protection of confidential information	0	0	•	0
Perceived lack of independence of courts	0	0	0	•
Lack of specialisation/expertise in courts	0	0	0	•
Applicable law of another Member State	0	0	•	0
Other	0	0	0	0
 ✓ Lump sum ✓ Other Is it possible in your jurisdiction for the right actively and knowingly facilitates infringem ✓ Yes ✓ No ✓ Don't know 		•	from a third	party who
Please explain:				
1500 character(s) maximum				
_				
Overall, in view of your experience with the setting damages do you think that the exist and preventing IPR infringements?				

⋆ Please explain:

_	
-	lementation and application of the rules for setting he provisions for the application of that measure?
O Yes	
No	
No opinion	
In your jurisdiction the reimbursement cover	of legal costs incurred by the successful party can
Court fees for instituting proceedings	✓ In-house costs
Other court fees	Attorney's charge
External expert(s) costsOther	Additional attorney's fees
Are there any limitations on the recove	rability of legal costs stipulated in the
legislation/established by case law in y Yes	our jurisdiction?
O No	
Please explain:	
500 character(s) maximum	
All legal costs actually incurre	d are not necessarily reimbursed.
AJA Section 312: Unless otherwis	e agreed by the parties, the unsuccessful
party must compensate the opposi	ng party for the costs incurred as a result of
the action.	
(2) In interlocutory appeals aga	inst orders and decisions, the unsuccessful
party must compensate the opposi	ng party for the costs incurred as a result of
	otherwise agreed by the parties.
_	t that the unsuccessful party is not to
	ly compensate the opposing party for his costs
if special circumstances so warr	
	s offered the opposing party what is due to
	ust compensate the unsuccessful party for the
	the process. Subsection (3) applies
correspondingly.	its optimate the plaintiff will be deemed to
	its entirety, the plaintiff will be deemed to
have lost the case for the purpo	
	t successful in having the decision under h party will be deemed to have lost the appeal
for the purposes of costs.	Fals, will be decided to have lost the appear
	in Parts 42, 42a, 43, 43a and 43b neither

party must pay costs to any other party. However, the court may direct a party

to pay costs if special circumstances so warrant.

Please also see the description of AJA Section 316 supplied in the answer to the next question.

*	Overall, in view of your experience with the implementation and application of the rules for
	the reimbursement of legal costs do you think that the existing rules have helped effectively
	in protecting IP and preventing IPR infringements?

- Yes
- No
- No opinion

⋆ Please explain:

1500 character(s) maximum

The following remarks constitutes a continuation of the reply to the previous question, as sufficent space was not available above:

AJA Section 316: The costs which have been necessary for the adequate conduct of the case are deemed to constitute recoverable costs. Legal costs or costs for assistance by a person representing a party under section 260(5) by virtue of his occupation or under section 260(6) are recoverable by a reasonable amount, and other costs are recoverable in full.

- *In view of your experience with the implementation and application of the rules for the reimbursement of legal costs do you see a need to adjust the provisions for the application of that measure?
 - Yes
 - No.
 - No opinion

C.2.4. Provisional and precautionary measures and injunctions (Articles 9 and 11)

Provisional and precautionary measures

- * Do you have information on the number of requests for provisional and precautionary measures filed in your jurisdiction in cases of alleged infringement of IPR and on the length of proceedings?
 - Yes
 - No

To your knowledge what are the reasons for applying for provisional and precautionary measures?

	Very relevant	Relevant	Less relevant	Not relevant
Prevent an imminent infringement	•	0	0	0

Forbid the continuation of an alleged infringement	•	0	0	0
Lodging of guarantees	0	0	0	•
Seizure or delivery up of the goods suspected of infringing an IPR	•	0	0	0
Blocking of alleged infringer's bank accounts and other assets	0	0	0	•
Precautionary seizure of other movable and immovable property of the alleged infringer	0	0	0	•
Other	0	0	0	0

*In your jurisdiction what are the requirements to obtain provisional and precautionary measures against an infringer?

1500 character(s) maximum

According to AJA, Section 413, a prohibitory or mandatory injunction may be granted if the party applying for the injunction proves on a balance of probabilities or by clear and convincing evidence:

- (i) that the party holds the right for which protection by way of a prohibitory or mandatory injunction is sought;
- (ii) that the conduct of the opposing party necessitates the granting of the injunction; and
- (iii) that the ability of the party to enforce his right will be lost if the party has to await a full trial.

According to AJA, Section 414, no prohibitory or mandatory injunction may be granted if the general provisions of this Act on penalty and compensation and any security offered by the opposing party are deemed to provide adequate protection to the party.

(2) The court may refuse to grant a prohibitory or mandatory injunction if such injunction would cause the opposing party to suffer a detriment or disadvantage which is clearly disproportionate to the party's interest in obtaining the injunction.

According to AJA, Section 627, the enforcement court may levy attachment to secure money claims when

- (i) execution cannot be levied regarding the claim, and
- (ii) it must be assumed that the possibility of obtaining coverage at a later point in time would otherwise be significantly impaired

Furthermore, according to AJA, Section 628, attachment cannot be levied when it must be assumed that the claim does not exist.

*In your jurisdiction can provisional and precautionary measures against an infringer be issued only to stop an actual infringement or also to prevent further infringements in the future?



Do you have in your jurisdiction an out of calleged IP infringements? Yes No Don't know To your knowledge what are the reasons for measures against an infringer?				
	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	0	0	•	0
Measure requested disproportionate	0	0	•	0
No likelihood of success on the merits of the case	•	0	0	0
Protection of confidentiality of information	0	0	•	0
Protection of the right to respect for private life and/or a right to protection of personal data	0	0	•	0
Request for a security or an equivalent				

★In your jurisdiction what are the requirements to obtain provisional and precautionary measures against an intermediary?

1500 character(s) maximum

No commercial scale infringement

Infringer established in another jurisdiction

assurance

Other

Only actual infringement

Don't know

Also further infringements in the future

AJA Section 413 on provisional and precautionary measures also applies in relation to intermediaries. Hence, the requirements are the same as explained above.

- *Is it possible to obtain provisional and precautionary measures against any intermediary or is an injunction subject to an active involvement (responsibility/liability) of the intermediary in the infringement?
 - Any intermediary
 - Only intermediaries actively involved in the infringement
 - Don't know

*	In your jurisdiction can provisional and precautionary measures against an intermediary be
	issued only to stop an actual infringement or also to prevent further infringements in the
	future?

- Only actual infringement
- Also further infringements in the future
- Don't know
- *How do you define "further infringements" without imposing on intermediaries general monitoring obligation in the meaning of the E-commerce Directive?

1500 character(s) maximum

Such provisional/precautionary measures would concern a specific infringement; The courts can thus issue a preliminary injunction against an intermediary, which imposes an obligation on the intermediary to block future access to a specific website.

To your knowledge what are the reasons for not obtaining provisional and precautionary measures against an intermediary?

	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	0	0	•	0
Measure requested disproportionate	0	•	0	0
No sufficient link between the intermediary and the infringement	©	0	•	0
No likelihood of success on the merits of the case	0	0	•	0
Protection of confidentiality of information	0	0	•	0
Protection of the right to respect for private life and/or right to protection of personal data	0	0	•	0
No commercial scale infringement	0	0	0	•
Intermediary established in another jurisdiction	0	0	•	0
Other	0	0	0	0

* Are you aware of problems when applying for provisional and precautionary measures in a
cross-border situation (judicial authority in your jurisdiction and infringer or intermediary
established in another Member State and/or judicial authority of another EU Member State)?

\bigcirc	Yes

No

	Very relevant	Relevant	Less relevant	Not relevan
No need for a provisional injunction	0	•	0	0
High cost of procedure	•	0	0	0
Excessive security	0	•	0	0
Length of procedure	0	0	•	0
Responsible court in another Member State	0	•	0	0
Applicable law of another Member State	0	•	0	0
Intermediary in question not covered	0	0	•	0
Other	0	•	0	0
Ocharacter(s) maximum Other reasons are: The risk to be liable for damage				nines tha
character(s) maximum Other reasons are: The risk to be liable for damage the provisional/precautionary me The industry also refers to the where the right holder seeks an to initiate cancellations proceed	so-called "injunction,	e not justifi OHIM bomb", the alleged	ed. meaning that infringer (in case
Other reasons are: The risk to be liable for damage the provisional/precautionary me The industry also refers to the where the right holder seeks an to initiate cancellations proceed junctions o you have information on the number ases of alleged infringement of IPR are Yes No	so-called " injunction, eding at OHI er of requests	e not justifi OHIM bomb", the alleged M (in 3 inst	meaning that infringer (ances). s filed in your ings?	in case
Other reasons are: The risk to be liable for damage the provisional/precautionary me The industry also refers to the where the right holder seeks an to initiate cancellations proceed junctions o you have information on the numbers ases of alleged infringement of IPR are Yes	so-called " injunction, eding at OHI er of requests	e not justifi OHIM bomb", the alleged M (in 3 inst	meaning that infringer (ances). s filed in your ings?	in case

* Are you aware of problems when executing provisional and precautionary measures in a cross-border situation (judicial authority in another jurisdiction and infringer or intermediary

established in your jurisdiction or vice versa)?

YesNo

According to AJA, Section 413, a prohibitory or mandatory injunction may be granted if the party applying for the injunction proves on a balance of probabilities or by clear and convincing evidence:

- (i) that the party holds the right for which protection by way of a prohibitory or mandatory injunction is sought;
- (ii) that the conduct of the opposing party necessitates the granting of the injunction; and
- (iii) that the ability of the party to enforce his right will be lost if the party has to await a full trial.
- *In your jurisdiction can an injunction against an infringer be issued only to stop an actual infringement or also to prevent further infringements in the future?
 - Only actual infringement
 - Also further infringements in the future
 - Don't know

To your knowledge what are the reasons for not obtaining an injunction against an infringer?

	<u> </u>		
Very relevant	Relevant	Less relevant	Not relevant
0	0	•	0
0	0	•	0
0	0	•	0
0	0	•	0
0	0	•	0
0	0	•	0
0	0	0	0
	-	Yelevant	relevant relevant relevant

*In your jurisdiction what are the requirements to obtain an injunction against an intermediary?

1500 character(s) maximum

AJA Section 413 on injunctions also applies in relation to intermediaries. Hence, the requirements to obtain an injunction against an intermediary are the same as explained above.

To your knowledge what are the measures applicants seek to implement when applying for an injunction against an intermediary with regard to third parties using their services infringing an IPR?

Very relevant	Relevant	Less relevant	Not relevant

Block access to infringing content online	•	0	0	0
Stay down of infringing content online	0	0	•	0
Adopt technical measures such as filtering	0	0	•	0
De-indexing infringing websites	0	0	•	0
Permanent termination of domain	0	0	•	0
Permanent termination of subscriber account	0	0	•	0
Discontinue providing payment services	0	0	•	0
Discontinue providing advertising services	0	0	•	0
Discontinue providing transport services	0	0	•	0
Discontinue manufacturing of infringing products	©	0	•	0
Termination of lease for commercial premises	0	0	•	0
Other	0	0	0	0

*Is it possible to obtain an injunction against any intermediary or is an injunction subject to an active involvement (responsibility/liability) of the intermediary in the infringement?

- Any intermediary
- Only intermediaries actively involved in the infringement
- Don't know

*In your jurisdiction can an injunction against an intermediary be issued only to stop an actual infringement or also to prevent further infringements in the future?

- Only actual infringement
- Also further infringements in the future
- Don't know

*How do you define "further infringements" without imposing on intermediaries general monitoring obligation in the meaning of the E-commerce Directive?

1500 character(s) maximum

Such an injunction would concern a specific infringement; The courts can thus issue an injunction against an intermediary, which imposes an obligation on the intermediary to block future access to a specific website.

* Is it possible in your jurisdiction to obtain an injunction against an internet intermediary forbidding the continued access to the material that is allegedly infringing IPR when that injunction does not specify the measures which that access provider must take?

0	Yes
	No
	Don't know

*How do courts guarantee the judicial oversight of the measures chosen by the intermediary in the context of the need to ensure compliance with the fundamental right of internet users to freedom of information?

1500 character(s) maximum

The intermediary's customers can initiate legal proceeding against the intermediary. During such a case the court will decide, if the measures chosen by the intermediary went too far.

To your knowledge what are the reasons for not obtaining an injunction against an intermediary?

	Very relevant	Relevant	Less relevant	Not relevant
Insufficient evidence	0	0	•	0
No sufficient link between the intermediary and the infringement	0	0	•	0
Measure requested too severe	0	•	0	0
Protection of confidentiality of information	0	0	•	0
Protection of the right to respect for private life and/or right to protection	0	0	•	0
No commercial scale infringement	0	0	•	0
Other	0	0	0	0

To your knowledge what are the reasons for not applying for an injunction?

	Very relevant	Relevant	Less relevant	Not relevant
No need for an injunction	0	•	0	0
Costs of procedure	•	0	0	0
Length of procedure	•	0	0	0
Court in another Member State	0	•	0	0
Applicable law of another Member State	0	0	•	0
Intermediary in question not covered	0	0	•	0
Other	0	0	0	0

* Are you aware of problems when applying for an injunction in a cross-border situation (judicial authority in your jurisdiction and intermediary established in another Member State and/or judicial authority of another EU Member State)?
O Yes
No
*Are you aware of problems when executing an injunction in a cross-border situation (judicial authority in another jurisdiction and infringer or intermediary established in your jurisdiction or vice versa)? Yes
No
 ★ In view of your experience with the application of the rules for provisional and precautionary measures and injunctions do you see a need to adjust the application of these measures? ○ Yes ○ No ○ No opinion
*Should the Directive explicitly establish that all types of intermediaries can be injuncted?
Yes
O No
No opinion
⋆ Please explain:
1500 character(s) maximum
It is not a problem in Denmark, where all types of intermediaries can be injuncted. However, as the situation differs across the member states, the proposed clarification is desirable.
*Should the Directive explicitly establish that no specific liability or responsibility (violation of any duty of care) of the intermediary is required to issue an injunction?
Yes
O No
No opinion
★ Please explain:
1500 character(s) maximum
1300 Character(s) maximum
*Should the Directive explicitly establish that national courts must be allowed to order intermediaries to take measures aimed not only at bringing to an end infringements already committed against IPR using their services, but also at preventing further infringements? Yes No

500 character(s) maximum	
recent public consulting The reply describes	Danish Government's reply to the European Commission's tation on online platforms and online intermediaries etc. the Danish Government's view on the role of intermediaries ions for future initiatives.
•	Directive establish criteria on how preventing further infringement out establishing a general monitoring obligation under the
Yes	
No	
No opinion	
Please explain:	
500 character(s) maximum	
_	
O Yes	teria defining the proportionality of an injunction?
YesNoNo opinion	teria demining the proportionality of an injunction:
YesNoNo opinionPlease explain:	teria demining the proportionality of an injunction:
Yes No No opinion Please explain: 500 character(s) maximum	
Yes No No opinion Please explain:	there is no need for such a clarification. The system
Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in De	there is no need for such a clarification. The system
Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in Denmark	there is no need for such a clarification. The system
Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in De	there is no need for such a clarification. The system
 Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in De Do you see a need for a company yes 	there is no need for such a clarification. The system
Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in De. Do you see a need for a company Yes No No opinion	there is no need for such a clarification. The system
 Yes No No opinion Please explain: 500 character(s) maximum Looking at Denmark, functions well in Description Do you see a need for a company of the Yes No 	there is no need for such a clarification. The system

@ \/	
Yes	
No	
No opinion	
⋆ Please explain:	
1500 character(s) maximum	
Looking at Denmark, t	here is no need for such a clarification.
*Do you see a need for othe measures and on injunction	er amendments to the provisions on provisional and precautionary ons?
Yes	
No	
No opinion	
C.2.5. Publication of judicia	I decisions (Article 15)
NoDon't know	
Diagram and the street of the Co. Co.	
* Please provide detail and re 1500 character(s) maximum	eference:
1500 character(s) maximum Most civil IPR cases judgments are publica Danish Ministerial Ne	are handled by the Maritime and Commercial Court. Its lly available on the court's website. In addition, The twork on IPR Infringements has established an online he judgment in criminal IPR cases (available at
Most civil IPR cases judgments are publica Danish Ministerial Ne database containing t www.stoppiratkopierin *To your knowledge do par of an IPR the decision to be Yes No Don't know	are handled by the Maritime and Commercial Court. Its lly available on the court's website. In addition, The twork on IPR Infringements has established an online he judgment in criminal IPR cases (available at
Most civil IPR cases judgments are publica Danish Ministerial Ne database containing t www.stoppiratkopierin *To your knowledge do par of an IPR the decision to be No	are handled by the Maritime and Commercial Court. Its lly available on the court's website. In addition, The twork on IPR Infringements has established an online he judgment in criminal IPR cases (available at g.dk). Ties usually request in legal proceedings instituted for infringemen

* Do you see a need for / added value in a more systematic dissemination of the information concerning the decision in legal proceedings instituted for infringement of an IPR?
Yes
O No
No opinion
Please explain:
1500 character(s) maximum
It is noted that the dissemination is already systematic in Denmark. It would be preferable to have a systematic dissemination in all member states.
C.2.6. Other issues
⋆ Please explain:
1500 character(s) maximum
improved? Yes No No opinion D. Issues outside the scope of the current legal framework
D.1. Intermediaries * Do you think that the existing rules strike the right balance between need to effectively
protect IP and preventing IP infringements and the need to protect fundamental rights including the right to respect for private life, the right to protection of personal data, the freedom to conduct a business as well as the freedom of information? Yes No No opinion
★ Do you believe that intermediary service providers should play an important role in enforcing IPR?
Yes
O No
No opinion
* In your opinion which intermediaries are best placed to prevent infringements of IPR?

For the purpose of this consultation:

"Advertising service provider"

Advertising agencies, advertising broker

"Contract manufacturing service provider"

Contract manufacturing is an outsourcing of certain production activities previously performed by the manufacturer to a third-party.

This may concern certain components for the product or the assembly of the whole product.

"Business-to-business data storage provider"

Data storage space and related management services for commercial user.

"Business-to-consumer data storage provider"

File-storing or file-sharing services for personal media files and data

"Content hosting platform"

Platforms providing to the user access to audio and video files, images or text documents.

"Press and media company"

Newspaper, broadcaster

V	Advertising service provider	1	Business-to-business data storage provider
V	Business-to-consumer data storage provider	1	Content hosting platform
1	Contract manufacturing service provider	1	DNS hosting service provider
1	Domain name registrar	1	Domain name registry
1	Internet Access Provider	1	Mobile apps marketplace
1	Online marketplace	1	Other
1	Payment service provider	1	Press and media company
1	Retailer	1	Search engine
1	Social media platform	1	Transport and logistics company

⋆ Please specify:

Wholesaler

500 character(s) maximum

All intermediaries could be relevant.

⋆Do you have in your juris	diction a legal obligation for intermediaries to engage in the
prevention of IPR infring	ements?
Yes	

- .
- No
- Don't know
- ★ Do you facilitate voluntary cooperation between rightholders and intermediaries in the protection and enforcement of IPR in your jurisdiction?
 - Yes
 - O No
 - Don't know

*For which intermediaries?

Advertising service provider	Business-to-business data storage provider
Business-to-consumer data storage provider	Content hosting platform
Contract manufacturing service provider	DNS hosting service provider
Domain name registrar	Domain name registry
Internet Access Provider	Mobile apps marketplace
Online marketplace	✓ Other
Payment service provider	Press and media company
Retailer	Search engine
Social media platform	Transport and logistics company
Wholesaler	

⋆ Please specify:

500 character(s) maximum

In 2014-15 the Danish Ministry of Culture held a series of meeting ("the Dialogue Forum") which aimed to promote the cooperation between right holders and intermediaries in the protection and enforcement of especially copyright and related right in Danmark. Most of the intermediaries listed above were present. A number of working groups have been established with the aim of mapping existing voluntary coorperation schemes and discussing the possibility of developing new schemes.

*Which IPR are covered by these voluntary cooperation schemes?

Copyright	V	Rights related to copyright
Community trademark rights	V	Community design rights
National trademark rights	V	National design rights
Patent rights (including rights of supplementary protection certified)		Geographical indications
Rights of the creator of the top semiconductor product	ographies of a	Plant variety rights
Sui generis right of a database	e maker	Trade names (in so far as these are protected as exclusive property rights in the national law concerned)
Utility model rights	V	Other
All IPR		Don't know

⋆ Please specify:

500 character(s) maximum

Currently the Danish right holders and most ISPs have entered into a specific agreement concerning blocking of websites. The agreement regarding blocking of websites does not specifically specify the covered IP-rights, but does primarily relate to copyright and related rights. Blocking of websites can also affect other type of rights, e.g. trademarks.

*Do you consider voluntary cooperation between rightholders and intermediaries successful?

Yes

Denmark, the following factors have been particularly imposessful voluntary cooperation between right holders and in Focus on the common interests of the right holders a ermediaries instead of on the differences between them. Involvement of parties from all parts of the value composition processes.	termediaries:
	hain.
ur opinion does the voluntary involvement of intermediary service paave or might have a negative impact on fundamental rights?	roviders in enforc
es	
opinion	
eluntary cooperation between rightholders and intermediaries (partners active and for themselves common guidelines at European level (part actice or sectoral agreements) p-regulation (basic principles laid down in a legislative act and entrusting tigectives defined to the partners) aututory cooperation ther model popinion	icularly codes of
ecialised courts	
ou have in your jurisdiction dedicated courts, courts' chamber or jud rs?	lges specialised ir
on't know	
e provide detail:	
aracter(s) maximum	

can use the Danish Copyright Tribunal to settle some disputes related to the

O No

size of the tariffs etc. A decision of the tribunal does not exclude the parties from using the regular court system.

* Which IPR are covered by the competence of t	he court?	
Copyright	Rights related to copyright	
Community trademark rights	Community design rights	
National trademark rights	National design rights	
Patent rights (including rights derived from	Geographical indications	
supplementary protection certificates)		
Rights of the creator of the topographies of a semiconductor product	Plant variety rights	
Sui generis right of a database maker	Trade names (in so far as these are protected as exclusive property rights in the national law concerned)	
Utility model rights	Other	
All IPR	Don't know	
- All IFN	DOIT KNOW	
*Does legal action at a court specialised in IPR legal actions at other courts?	matters provide an added value compared to	
Yes		
O No		
No opinion		
* What is the added value?		
Shorter lengths of proceedingsLower costs		
Court proceedings more fit-for-purpose		
Better quality of the court decision		
Other		
- Curer		
D.3 Other issues		
⋆ Do you identify any other issue outside the sco be considered in view of the intention to mode		
Yes		
O No		
⋆ Please explain:		
3000 character(s) maximum		
Please refer to the Danish Government's reply to the European Commission's		
recent public consultation on online platforms and online intermediaries etc.		

The reply supports that the Commission analyses the need for new proposals to enhance the intermediaries' use of effective notice and action mechanisms for

removing illegal online content. The reply also invites the European

Commission to provide guidance to intermediaries on how best to implement

efficient and cost-effective procedures. The reply further invites the Commission to consider and provide guidance on how a notifying party can present its notifications in order for them to be dealt with in a simple way.

E. Other comments

- * Do you have any other comments?
 - Yes
 - No

Useful links

Enforcement of intellectual property rights

(http://ec.europa.eu/growth/industry/intellectual-property/enforcement/index_en.htm)

The Single Market Strategy (http://europa.eu/rapid/press-release_MEMO-15-5910_en.htm)

The Digital Single Market Strategy (http://europa.eu/rapid/press-release_MEMO-15-4920_en.htm)

Background Documents

- [DE] Hintergrund (/eusurvey/files/eed130c7-c2e2-4aa3-a725-834e6ac65582)
- [EN] Background information (/eusurvey/files/59cc0502-e708-42a1-9f60-e6ac0d3ce7b2)
- [EN] Privacy statement (/eusurvey/files/0e48e217-2a0e-4baa-b1c6-0a7f6b6a72de)
- [ES] Antecedentes (/eusurvey/files/c98964c8-7868-4ed6-a486-3ed15857f6aa)
- [ES] Declaracin de confidencialidad (/eusurvey/files/dcc62c7a-8fd0-4cb4-b318-c2394bc78ab0)
- [FR] Contexte (/eusurvey/files/7954e368-34d3-4f77-949c-475054252ed7)
- [FR] Dclaration relative la protection de la vie prive (/eusurvey/files/d44e8537-f2d0-4a2b-9ecb-705320173268)
- [IT] Contesto (/eusurvey/files/cf4c0c14-5709-4a64-80fe-39c291450049)
- [IT] Informativa sulla privacy (/eusurvey/files/99946082-57c7-4e0d-be6b-1e67556fb530)
- [PL] Kontekst (/eusurvey/files/b248e5cc-33b6-4350-aa31-930b40ecd046)
- [PL] Oświadczenie o ochronie prywatności (/eusurvey/files/5dcc83aa-d6fb-43dc-9acd-327a913d35aa)

Contact

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