

# Voluntary Cooperation Practices

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## INTRODUCTION



**How can  
you address**



**IP infringement**



**in a  
fast-changing  
digital world?**

## OVERVIEW

- What are voluntary cooperation practices?
- IPR and the ‘follow the money’ approach
- EUIPO in-depth study on six national practices
- Examples of recent national initiatives
- Conclusions
- Q&A

## WHAT ARE VOLUNTARY COOPERATION PRACTICES?

One possible definition:  
Voluntary agreements  
between parties, often IP  
rights holders and other  
actors, in particular in the  
digital environment,  
addressing (online) IP  
infringement with the aim of  
reducing it



## WHAT ARE VOLUNTARY COOPERATION PRACTICES?

- Flexible and fast way to address IP infringement, in particular online, in a world of rapid technological changes
- Need to be in line with existing law, including fundamental rights, privacy laws and data protection



## IPR AND THE 'FOLLOW THE MONEY' APPROACH — EUROPEAN COMMISSION

- July 2014: IPR Enforcement Action Plan
- May 2015: Digital Single Market Communication
- October 2015: Single Market Strategy
- December 2015: Copyright Communication
- November 2017: Communication: Balanced IP Enforcement

## IPR AND THE 'FOLLOW THE MONEY' APPROACH — EUROPEAN COMMISSION

- Voluntary cooperation agreements (MoUs)
- Commercial scale infringement
- Intermediaries: internet sales platforms, payment service providers, advertising industry, shipping companies



## IPR AND THE 'FOLLOW THE MONEY' APPROACH — EUROPEAN COMMISSION



- Facilitate (technically and politically) the MoU agreements and KPIs
- Ensure consistency with acquis
- Monitor and publicise
- Ensure inclusivity and transparency



## IPR AND THE 'FOLLOW THE MONEY' APPROACH — EUROPEAN COMMISSION

- MoU with online sales platforms (adopted June 2016)
- MoU with online advertising intermediaries (negotiation)
- MoU with payment service providers
- MoU with transport companies



## MoU WITH ONLINE SALES PLATFORMS — KPIs

- % of top 100 search results on each platform pointing to alleged counterfeits of the brand in question
- Number of listings removed by platforms as a result of (i) proactive measures, and (ii) signatory rights owners' requests
- Number of permanent and temporary restrictions of sellers imposed by platforms linked to alleged infringements of signatory rights owners' IPR
- Two data collection periods/year: 15 May to 5 June and 15 Nov to 15 Dec
- Observatory acting as the 'neutral arbiter': receives the raw data from MoU signatories, aggregates it and provides results to the Commission

## EUIPO IN-DEPTH STUDY ON SIX NATIONAL PRACTICES

### STUDY

on voluntary collaboration practices in  
addressing online infringements of trade mark  
rights, design rights, copyright and rights  
related to copyright



## EUIPO IN-DEPTH STUDY ON SIX NATIONAL PRACTICES

Notice-and-take-down	Advertising	Payment processor
French charter for the fight against the sale of counterfeit goods	Ethics code of the Austrian advertising industry	U.S. IACC payment processor initiative & portal program
Dutch notice-and-take-down code of conduct	UK good practice principles for digital advertising	
Danish code of conduct for ISPs		

## EUIPO IN-DEPTH STUDY ON SIX NATIONAL PRACTICES

- Role of the parties
- Duties and procedures
- Coexistence with legal frameworks and case law
- Role of technologies
- Costs
- Educational activities
- Effectiveness



## EUIPO IN-DEPTH STUDY ON SIX NATIONAL PRACTICES

### COMMONALITIES

Voluntary nature

Measures to prohibit or detect  
IP infringements

Almost none involve costs/fees  
(although indirect costs arise)

Complaints dealt as a form of  
cooperation



## EUIPO IN-DEPTH STUDY ON SIX NATIONAL PRACTICES



### DIFFERENCES

Origin

IP rights involved

Stakeholders

Territorial scope

Procedures

Technologies

Education

Effectiveness

## EXAMPLES OF RECENT NATIONAL INITIATIVES

- Code of Practice on search and copyright between search engines and the creative industries in the UK, February 2017
- Danish Code of Conduct to promote lawful behaviour on the internet; dialogue forum; recent Adkodex





## CONCLUSIONS AND POTENTIAL FUTURE DEVELOPMENTS

- Voluntary Cooperation Practices can be a flexible way to address IP infringement in a fast-changing, predominantly digital world
- Intermediaries play a decisive role
- Monitoring functioning and effectiveness of practices (KPIs)
- Future development: probable increase of practices, also at national level

## QUESTIONS & ANSWERS



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Thank you

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