

Intellectual Property Rights Protection on the Internet in France: The end of Hadopi?



*Laura Bérard, a French MSc student in the Political Economy of Europe programme at the **LSE European Institute**, looks at recent changes to intellectual property rights enforcement in France and questions the future of the group currently responsible for protecting those rights, Hadopi.*

France is trying to take a new approach to intellectual property rights protection on the Internet and 2014 may be full of changes or much disappointment. The French High Authority for the distribution of Works and the Protection of Rights on the Internet (**Hadopi**) is trying to change in the face of much criticism and possible extinction; instead of its past (and **unsuccessful**) attempts to punish online copyright infringers, it is attempting to beef up its work to encourage people to access content legally.

Graduated Response System Failed

The three strikes warning system (referred to as the graduated response mechanism), aimed at warning and punishing Internet users downloading illegally, garnered a lot of the criticism directed at Hadopi. Methods for identifying those downloading copyrighted materials (done through the Internet service provider) did not differentiate between multiple users sharing an Internet connection. Moreover, the system required users to become more adept at protecting their Internet connection since they were liable for all activities carried out with their broadband access. France even came up with a **new charge** for those not protecting their Internet access.

Not only did France's attempt to cut off Internet access for repeat infringers prove to be expensive and ineffective, as previous authors on the LSE Media Policy Project have mentioned, but it was also contested as an unjust invasion of privacy. The European Parliament **argued** that it constitutes a non-proportional sanction, by denying access to a crucial resource for participation in social and economic life. And the French National Commission on Information Technology and Liberties, an independent body in charge of ensuring the respect of human rights in information technologies, **argued** that the suspension of Internet access based on the collection of IP addresses from Internet Service Providers would constitute an unreasonable intrusion on citizens' privacy.

A new direction?

Last month, Hadopi launched **Legal Offer**. This new site lists over 300 websites that offer copyright-friendly content. An "Offre Légale Hadopi" label is meant to make it easier for Internet users to identify websites respecting the rights of creators. Legal Offer has been welcomed as a step forward from Hadopi's former PUR label (Promotion des Usages Responsables – Responsible Uses Promotion) denoting legally supplied content. Legal Offer is easier to use and lists over 300 websites, whereas PUR only classified around 30. However, it still does not allow users to search for one specific movie or song in order to see where it could be legally available, even though this is how many Internet users search for in-demand content.



From: <http://www.offrelegale.fr/>





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Hadopi recently had its budget slashed and it may cease to exist as an institution. The French government is considering transferring it to the Audiovisual High Council (Conseil Supérieur de l'Audiovisuel), the radio and television regulator. The French Minister of Culture and Communications, Aurélie Filippetti, has announced that a new law, to be presented to the Council of Ministers in February 2014, should transfer at least the system of fines, if not all of Hadopi's functions, to the CSA.

François Hollande has not been a Hadopi supporter either. While he was running for the Presidency, he advocated for repealing Hadopi. The [Lescure Report](#), released under Hollande's Presidency, also recommended closing Hadopi. Lescure suggested dropping the Internet access suspension punishment, limiting an infringement fine to €60, and transferring some of its tasks to the CSA. The CSA would become the "regulator for digital cultural supply" (Lescure Report, p. 33). Since the report came out, the French government has stopped suspending broadband access in July 2013 and maintained the previous system of fines as the highest sanction incurred instead.

2014 unlikely to bring much change

The French paper Le Point claimed "[La Hadopi est morte, vive la Hadopi !](#)" (Hadopi is dead, Long live Hadopi), expressing concern that the new bill to be introduced in February might simply transfer the existing system to the CSA without coming up with a new model for sharing content on the Internet or without better positioning itself in the debates around Internet Freedom. The upcoming months should tell whether such scepticism is justified. With the packed Council of Ministers' agenda, Filippetti will have work hard to get the bill introduced before the French local elections in May 2014. [According to some estimates](#), the CSA will have to wait until fall 2014 to see whether it absorbs Hadopi or any of its tasks. Once presented to the Council of Ministers, committees in the National Assembly and the Senate will review and amend it before it can be presented and adopted in plenary session in both chambers of Parliament. In other words, those interested in copyright should keep an eye on France to see whether they develop any innovative solutions for intellectual property management online or if the unsatisfactory status quo prevails.

This article gives the views of the author, and does not represent the position of the LSE Media Policy Project blog, nor of the London School of Economics.

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