

## New Weapons to Fight Sports Rights Piracy in France



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→ **Broadcasting rights - National law - National courts**

*French Law no. 2021-1382, 25 October 2021, relating to the regulation and protection of access to cultural works in the digital age<sup>1</sup>*

The French National Assembly adopted the bill to regulate and protect access to cultural and artistic works in the digital age on 29 September 2021. On 21 October 2021, the Constitutional Council ruled that some provisions of this Law were contrary to the French Constitution, although none concerned anti-piracy mechanisms ([Cons. const., Decision no. 2021-826 DC, 21 October 2021](#)). Therefore, as of 1 January 2022, organizers and broadcasters will have at their disposal very useful tools to fight against the illegal broadcasting of sports events.

The singularity of piracy is due to several aspects.

First, technically, piracy is not just a matter of websites that broadcast sports competitions without authorization. Many showcase sites contain many hyperlinks, which point to hosting platforms, which allow both the creation of streaming channels and the storage of pirated content on servers. These servers are rented or sublet from technical hosts or countless intermediaries, generally located in legal havens.

Temporally, judges cannot respond in real-time to requests from right holders who have noticed a match's live broadcasting. The temporality of the French judicial system and the temporality of live broadcast piracy are incompatible.

Finally, legally, pirates are anonymous or difficult to identify and their "visible" intermediaries (technical hosts, registrars, Internet access providers, etc.) are as uncooperative as they are quick to invoke the lighter liability of the hosts to refuse to comply with the requests of rights holders. However, as far as streaming is concerned, withdrawal or blocking measures must be taken in real-time (during the broadcasting of the pirated content). Otherwise, they are of no use.

The adoption of this bill is a reward for the continuous efforts made for almost a decade by rights holders to protect the value of audiovisual rights, which are the main source of funding for French sports. Every consumer who turns to illegal streaming mechanically turns away from a paid legal offer to the right holders' detriment. The music industry encountered this phenomenon at the beginning of the 2000s with the appearance of *Napster* and everyone is now able to measure the consequences.

For all these reasons, the adoption of this law and its salient measures presented below are to be welcomed.

### **Establishing ARCOM**

The French legislator first created the *Autorité de régulation de la communication audiovisuelle et numérique* (ARCOM),<sup>2</sup> an independent administrative authority resulting from the merger of the Conseil supérieur de l'audiovisuel (CSA)<sup>3</sup> and the *Haute autorité pour la diffusion des œuvres et la protection des droits sur internet* (HADOPI).<sup>4</sup> ARCOM and its agents

<sup>2</sup> The Regulatory Authority for Digital and Audiovisual Communication.

<sup>3</sup> The High Council For Audiovisual Matters.

<sup>4</sup> The High Authority for the Dissemination of Works and the Protection of Rights on the Internet.

<sup>1</sup> [French Law no. 2021-1382, 25 October 2021](#)