

# 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

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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](mailto: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](mailto: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)**

**\* 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
- No
- Non-applicable

**\* Register ID number**

**\* 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

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**\* Please identify the national authority you are responding for.**

- National ministry or authority responsible for IPR enforcement policy
- National IP office
- National authority responsible for IPR enforcement
- Regional authority responsible for IPR enforcement
- Other law enforcement authority
- Other

\* Please specify:

*500 character(s) maximum*

\* Please indicate the country of establishment of the authority:

- |                                      |                                      |
|--------------------------------------|--------------------------------------|
| <input type="radio"/> Austria        | <input type="radio"/> Italy          |
| <input type="radio"/> Belgium        | <input type="radio"/> Latvia         |
| <input type="radio"/> Bulgaria       | <input type="radio"/> Lithuania      |
| <input type="radio"/> Cyprus         | <input type="radio"/> Luxembourg     |
| <input type="radio"/> Croatia        | <input type="radio"/> Malta          |
| <input type="radio"/> Czech Republic | <input type="radio"/> Netherlands    |
| <input type="radio"/> Denmark        | <input type="radio"/> Poland         |
| <input type="radio"/> Estonia        | <input type="radio"/> Portugal       |
| <input type="radio"/> Finland        | <input type="radio"/> Romania        |
| <input type="radio"/> France         | <input type="radio"/> Slovakia       |
| <input type="radio"/> Germany        | <input type="radio"/> Slovenia       |
| <input type="radio"/> Greece         | <input type="radio"/> Spain          |
| <input type="radio"/> Hungary        | <input type="radio"/> Sweden         |
| <input type="radio"/> Ireland        | <input type="radio"/> United Kingdom |
| <input type="radio"/> Other          |                                      |

\* Please specify:

*500 character(s) maximum*

\* Your authority is responsible for the following IPR:

- |  |  |
|--|--|
| <input type="checkbox"/> Copyright   | <input type="checkbox"/> Rights related to copyright   |
| <input type="checkbox"/> Community trademark rights  | <input type="checkbox"/> Community design rights   |
| <input type="checkbox"/> National trademark rights   | <input type="checkbox"/> National design rights  |
| <input type="checkbox"/> Patent rights (including rights derived from supplementary protection certificates) | <input type="checkbox"/> Geographical indications  |
| <input type="checkbox"/> Rights of the creator of the topographies of a semiconductor product                | <input type="checkbox"/> Plant variety rights  |
| <input type="checkbox"/> Sui generis right of a database maker   | <input type="checkbox"/> Trade names (in so far as these are protected as exclusive property rights in the national law concerned) |
| <input type="checkbox"/> Utility model rights  | <input type="checkbox"/> Other   |
| <input type="checkbox"/> All IPR   |  |

\* Please specify:

500 character(s) maximum

## B. Impact of IP infringing goods and services

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\* From your experience, how did the occurrence of IPR infringements develop over last 10 years?

- Decreased
- Increased
- Unchanged
- Don't know

\* Please specify:

1500 character(s) maximum

**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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Health	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Safety	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*SME	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Competitiveness	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

1500 character(s) maximum

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

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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

**\* Do you think that the existing rules have helped effectively in protecting IP and preventing IP infringements?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

## 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
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

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
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

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

- Yes
- No

**\* Please provide detail and reference:**

*1500 character(s) maximum*

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

*1500 character(s) maximum*

**\* 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*

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

*1500 character(s) maximum*

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

*1500 character(s) maximum*

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

*1500 character(s) maximum*

**\* 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*

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

	Very relevant	Relevant	Less relevant	Not relevant
*Unjustified/disproportionate request	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of rights to respect for private life and protection of personal data	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Information not available (anymore)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Information provided in the request inaccurate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**\* Please specify:**

*500 character(s) maximum*

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

	Very relevant	Relevant	Less relevant	Not relevant
*Low probability of success	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No judgment on the merits yet	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Length of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Court fee	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Lawyer's fee and other costs related to the application	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Defendant established in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Court in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Applicable law of another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

**\* 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?**

- Yes
- No
- No opinion

\* Please explain:

*1500 character(s) maximum*

**\* In view of your experience with the implementation and application of the right of information 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

### 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
- No

\* Please provide detail and reference:

1500 character(s) maximum

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

	Very relevant	Relevant	Less relevant	Not relevant
* Damages	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Interlocutory injunction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Permanent injunction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

**\* 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

\* Please explain:

*1500 character(s) maximum*

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

	Very relevant	Relevant	Less relevant	Not relevant
*High court fees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*High lawyer's fees and other costs related to litigation	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Length of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Low probability of obtaining appropriate compensation for the damages suffered	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Low probability of obtaining appropriate compensation of legal costs and other expenses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Low probability of obtaining a provisional and/or permanent injunction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Low probability of enforcing the judgment	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Court in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Risk of IPR being invalidated	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidential information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Perceived lack of independence of courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Lack of specialisation/expertise in courts	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Applicable law of another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

**\* In your jurisdiction damages compensating for the prejudice suffered as a result of an infringement can include**

- Lost profit
- Unfair profits
- Moral prejudice
- Lump sum
- Other

**\* Please specify:**

*500 character(s) maximum*

**\* Is it possible in your jurisdiction for the right holder to claim damages from a third party who actively and knowingly facilitates infringements of IPRs?**

- Yes
- No
- Don't know

**\* Please explain:**

*1500 character(s) maximum*

**\* Overall, in view of your experience with the implementation and application of the rules for setting damages 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*

**\* In view of your experience with the implementation and application of the rules for setting damages 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*

\* **In your jurisdiction the reimbursement of legal costs incurred by the successful party can cover**

- |   |   |
|---|---|
| <input type="checkbox"/> Court fees for instituting proceedings | <input type="checkbox"/> In-house costs             |
| <input type="checkbox"/> Other court fees                       | <input type="checkbox"/> Attorney's charge          |
| <input type="checkbox"/> External expert(s) costs               | <input type="checkbox"/> Additional attorney's fees |
| <input type="checkbox"/> Other                                  |   |

\* Please specify:

*500 character(s) maximum*

\* **Are there any limitations on the recoverability of legal costs stipulated in the legislation/established by case law in your jurisdiction?**

- Yes  
 No

\* Please explain:

*1500 character(s) maximum*

\* **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*

\* **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

\* Please explain:

*1500 character(s) maximum*

### C.2.3. 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

\* Please provide detail and reference:

*1500 character(s) maximum*

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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Forbid the continuation of an alleged infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Lodging of guarantees	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Seizure or delivery up of the goods suspected of infringing an IPR	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Blocking of alleged infringer's bank accounts and other assets	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Precautionary seizure of other movable and immovable property of the alleged infringer	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
* Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

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

*1500 character(s) maximum*

**\* 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?**

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

**\* Do you have in your jurisdiction an out of court procedure for cease and desist notices for alleged IP infringements?**

- Yes
- No
- Don't know

Please provide detail and reference:

*1500 character(s) maximum*

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

	Very relevant	Relevant	Less relevant	Not relevant
*Insufficient evidence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Measure requested disproportionate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No likelihood of success on the merits of the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of the right to respect for private life and/or a right to protection of personal data	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Request for a security or an equivalent assurance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No commercial scale infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Infringer established in another jurisdiction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

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

*1500 character(s) maximum*

**\* 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

\* Please explain:

*1500 character(s) maximum*



**\* 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*

**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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Measure requested disproportionate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No sufficient link between the intermediary and the infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No likelihood of success on the merits of the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of the right to respect for private life and/or right to protection of personal data	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No commercial scale infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Intermediary established in another jurisdiction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

**\* Please specify:**

*500 character(s) maximum*

**\* 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)?**

- Yes  
 No

**\* Please explain:**

*1500 character(s) maximum*

**\* 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)?**

- Yes  
 No

**\* Please explain:**

*1500 character(s) maximum*

**C.6.14. To your knowledge what are the reasons for not applying for provisional and precautionary measures?**

	Very relevant	Relevant	Less relevant	Not relevant
*No need for a provisional injunction	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*High cost of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Excessive security	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Length of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Responsible court in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Applicable law of another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Intermediary in question not covered	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

## Injunctions

\* Do you have information on the number of requests for injunctions filed in your jurisdiction in cases of alleged infringement of IPR and on the length of proceedings?

- Yes  
 No

\* Please provide detail and reference:

*1500 character(s) maximum*

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

*1500 character(s) maximum*

\* 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

\* Please specify:

*500 character(s) maximum*

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

	Very relevant	Relevant	Less relevant	Not relevant
*Insufficient evidence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No sufficient link between the intermediary and the infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Measure requested disproportionate	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of the right to respect for private life and/or right to protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No commercial scale infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

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

*1500 character(s) maximum*

**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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Stay down of infringing content online	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Adopt technical measures such as filtering	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*De-indexing infringing websites	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Permanent termination of domain	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Permanent termination of subscriber account	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Discontinue providing payment services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Discontinue providing advertising services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Discontinue providing transport services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Discontinue manufacturing of infringing products	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Termination of lease for commercial premises	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

**\* 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

\* Please explain:

*1500 character(s) maximum*

\* **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*

\* **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?**

- 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*

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

	Very relevant	Relevant	Less relevant	Not relevant
*Insufficient evidence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No sufficient link between the intermediary and the infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Measure requested too severe	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of confidentiality of information	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Protection of the right to respect for private life and/or right to protection	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*No commercial scale infringement	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

**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	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Costs of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Length of procedure	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Court in another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Applicable law of another Member State	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Intermediary in question not covered	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
*Other	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

\* Please specify:

*500 character(s) maximum*

\* **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)?**

- Yes  
 No

\* Please explain:

*1500 character(s) maximum*

\* **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

\* Please explain:

*1500 character(s) maximum*

\* **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 enjoined?**

- Yes  
 No  
 No opinion

\* Please explain:

*1500 character(s) maximum*



**\* 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
- No
- No opinion

**\* Please explain:**

*1500 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
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* In that respect should the Directive establish criteria on how preventing further infringements is to be undertaken (without establishing a general monitoring obligation under the E-Commerce Directive)?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* Do you see a need for criteria defining the proportionality of an injunction?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* Do you see a need for a definition of the term "intermediary"?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* Do you see a need for a clarification on how to balance the effective implementation of an injunction and the right to freedom of information of users in case of a provisional measure or injunction prohibiting an internet service provider from allowing its customers access to allegedly IPR infringing material without specifying the measures which that service provider must take?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* Do you see a need for other amendments to the provisions on provisional and precautionary measures and on injunctions?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

#### C.2.4. Publication of judicial decisions (Article 15)

**\* Are judicial decisions related to the enforcement of intellectual property rights publicly available in your jurisdiction?**

- Yes
- No
- Don't know

\* Please provide detail and reference:

*1500 character(s) maximum*

\* **To your knowledge do parties usually request in legal proceedings instituted for infringement of an IPR the decision to be published in full or in part?**

- Yes
- No
- Don't know

Please specify:

*1500 character(s) maximum*

\* **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
- No
- No opinion

Please explain:

*1500 character(s) maximum*

### C.2.5. Other issues

\* **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

\* Please explain:

*1500 character(s) maximum*

**\* Are there any other provisions of the Directive which, in your view, would need to be improved?**

- Yes
- No
- No opinion

**\* Please explain:**

*3000 character(s) maximum*

## **D. Issues outside the scope of the current legal framework**

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### **D.1. Intermediaries**

**\* Do you believe that intermediary service providers should play an important role in enforcing IPR?**

- Yes
- No
- No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* 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

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

**\* Please specify:**

*500 character(s) maximum*

**\* Do you have in your jurisdiction a legal obligation for intermediaries to engage in the prevention of IPR infringements?**

- Yes
- No
- Don't know

**\* Please provide detail:**

*1500 character(s) maximum*

**\* Do you facilitate voluntary cooperation between rightholders and intermediaries in the protection and enforcement of IPR in your jurisdiction?**

- Yes
- No
- Don't know

**\* For which intermediaries?**

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

**\* Please specify:**

*500 character(s) maximum*

**\* Which IPR are covered by these voluntary cooperation schemes?**

- |  |  |
|--|--|
| <input type="checkbox"/> Copyright   | <input type="checkbox"/> Rights related to copyright   |
| <input type="checkbox"/> Community trademark rights  | <input type="checkbox"/> Community design rights   |
| <input type="checkbox"/> National trademark rights   | <input type="checkbox"/> National design rights  |
| <input type="checkbox"/> Patent rights (including rights derived from supplementary protection certificates) | <input type="checkbox"/> Geographical indications  |
| <input type="checkbox"/> Rights of the creator of the topographies of a semiconductor product                | <input type="checkbox"/> Plant variety rights  |
| <input type="checkbox"/> Sui generis right of a database maker   | <input type="checkbox"/> Trade names (in so far as these are protected as exclusive property rights in the national law concerned) |
| <input type="checkbox"/> Utility model rights  | <input type="checkbox"/> Other   |
| <input type="checkbox"/> All IPR   | <input type="checkbox"/> Don't know  |

**\* Please specify:**

*500 character(s) maximum*

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

- Yes
- No
- No opinion

**\* What are the essential elements for a successful voluntary cooperation between rightholders and intermediaries?**

*1500 character(s) maximum*

**\* On the basis of your experience what are the main challenges in establishing a successful cooperation between rightholders and intermediaries?**

- Economic interests (e.g. additional costs)
- Specific regulatory requirements
- Technology
- Other

**\* Please specify:**

*1000 character(s) maximum*

Please explain:

*1500 character(s) maximum*

**\* In your opinion does the voluntary involvement of intermediary service providers in enforcing IPR have or might have a negative impact on fundamental rights?**

- Yes
- No
- No opinion

**\* How could fundamental rights be negatively affected?**

- Limitation of freedom of expression
- Limitation of freedom to conduct business
- Limitation of the right to due process
- Limitation to the dissemination of legal content
- Other

\* Please specify:

*1000 character(s) maximum*

**\* In view of your experience which model would you consider most efficient for the involvement of intermediaries in the prevention of IPR infringements?**

- Voluntary cooperation between rightholders and intermediaries (partners adopt amongst themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements))
- themselves and for themselves common guidelines at European level (particularly codes of practice or sectoral agreements)
- Co-regulation (basic principles laid down in a legislative act and entrusting the attainment of the objectives defined to the partners)
- Statutory cooperation
- Other model
- No opinion

\* Please specify:

*1500 character(s) maximum*

## D.2. Specialised courts

**\* Do you have in your jurisdiction dedicated courts, courts' chamber or judges specialised in IP matters?**

- Yes
- No
- Don't know

\* Please provide detail:

*1500 character(s) maximum*



**\* Which IPR are covered by the competence of the court?**

- |  |  |
|--|--|
| <input type="checkbox"/> Copyright   | <input type="checkbox"/> Rights related to copyright   |
| <input type="checkbox"/> Community trademark rights  | <input type="checkbox"/> Community design rights   |
| <input type="checkbox"/> National trademark rights   | <input type="checkbox"/> National design rights  |
| <input type="checkbox"/> Patent rights (including rights derived from supplementary protection certificates) | <input type="checkbox"/> Geographical indications  |
| <input type="checkbox"/> Rights of the creator of the topographies of a semiconductor product                | <input type="checkbox"/> Plant variety rights  |
| <input type="checkbox"/> Sui generis right of a database maker   | <input type="checkbox"/> Trade names (in so far as these are protected as exclusive property rights in the national law concerned) |
| <input type="checkbox"/> Utility model rights  | <input type="checkbox"/> Other   |
| <input type="checkbox"/> All IPR   | <input type="checkbox"/> Don't know  |

**\* Please specify:**

*500 character(s) maximum*

**\* Does legal action at a court specialised in IPR matters provide an added value compared to legal actions at other courts?**

- Yes  
 No  
 No opinion

**\* Please explain:**

*1500 character(s) maximum*

**\* What is the added value?**

- Shorter lengths of proceedings  
 Lower costs  
 Court proceedings more fit-for-purpose  
 Better quality of the court decision  
 Other

**\* Please specify:**

*500 character(s) maximum*

**\* Do you identify any other issue outside the scope of the current legal framework that should be considered in view of the intention to modernise the enforcement of IPR?**

Yes

No

**\* Please explain:**

*3000 character(s) maximum*

## E. Other comments

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**\* Do you have any other comments?**

Yes

No

**\* Please explain:**

*3000 character(s) maximum*