The European Parliament,

– having regard to Article 225 of the Treaty on the Functioning of the European Union (‘the TFEU’),

– having regard to Article 114 TFEU,

– having regard to the Charter of Fundamental Rights of the European Union and in particular Articles 7, 8, 11, 16, 17(2), 47 and 52 thereof,


– having regard to the Commission’s Statement on sport event organisers, annexed to the European Parliament legislative resolution of 26 March 2019 on the proposal for a directive of the European Parliament and of the Council on copyright in the Digital Single Market²,


– having regard to Regulation (EU) 2017/1128 of the European Parliament and of the Council of 14 June 2017 on cross-border portability of online content services in the internal market⁴,

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¹ OJ L 130, 17.5.2019, p. 92.
³ OJ L 130, 17.5.2019, p. 82.


having regard to Directive 2010/13/EU of the European Parliament and of the Council of 10 March 2010 on the coordination of certain provisions laid down by law, regulation or administrative action in Member States concerning the provision of audiovisual media services ('Audiovisual Media Services Directive')4,

having regard to the Commission Recommendation (EU) 2018/334 of 1 March 2018 on measures to effectively tackle illegal content online5 and the Communication from the Commission of 28 September 2017 to the European Parliament, the Council and the European Economic and Social Committee, entitled “Tackling Illegal Content Online: Towards an enhanced responsibility of online platforms” (COM(2017)0555),


having regard to the Memorandum of Understanding of 25 June 2018 on online advertising and intellectual property rights facilitated by the European Commission and the Report of the Commission on the functioning of the Memorandum of Understanding on online advertising and intellectual property rights (SWD(2020)0167),

having regard to Rules 47 and 54 of its Rules of Procedure,

having regard to the opinion of the Committee on Culture and Education,

having regard to the report of the Committee on Legal Affairs (A9-0139/2021),

A. whereas sport plays a key role in the social, cultural and economic prosperity of the Union and promotes common values of solidarity, diversity and social inclusion, making significant contributions to the economy and to social development;

B. whereas, under Article 165 TFEU, the Union shall contribute to the promotion of European sporting issues, while taking account of the specific nature of sport; whereas the contribution of sport to achieving the Union’s overall objectives such as environmental protection, digitalisation and inclusiveness should also be taken into account, and the

Union should aim at further developing and preserving the European dimension of sport in the digital environment;

C. whereas, in addition, sport promotes and instils values such as mutual respect and understanding, solidarity, equality, inclusiveness, diversity, fairness, cooperation, and civic engagement, while substantially contributing to educational and cultural values, and can be considered as a cultural and social necessity; whereas it is essential that these values are encouraged by sports events organisers, broadcasters, online intermediaries, national authorities and other stakeholders in the sport sector; whereas the Union's sport policy must support the aims and objectives of both professional and amateur sports and can help address transnational challenges;

D. whereas sport serves as a vector for integration; whereas sports stakeholders, municipalities and the sports community should cooperate to move towards a more sustainable and inclusive sports sector by facilitating participation in sports events for all members of the public, especially people with fewer opportunities, and regardless of their age, gender, disability or ethnic origin;

E. whereas fan culture is an indispensable part of the sports experience and not just a backdrop for marketing a product;

F. whereas sport related sectors represent 2,12% of Union GDP and 2,72% of employment within the Union; whereas sports events have a significant territorial impact in terms of participation and the economy;

G. whereas grassroots sport is the basis for the professional level, as small sports clubs constitute the backbone of European grassroots sport and make a significant contribution to the development of young athletes and mostly work on a voluntary basis; whereas 35 million amateurs contribute to the development of mass-participation sport and the dissemination of the values of sport;

H. whereas the development of the digital environment and of new technologies has made it easier for all fans to access sports events broadcasts on all kinds of devices, increasing potential exposure to illegal content and enlarging the number of people who can access such broadcasts, and has offered opportunities for sports that are traditionally not broadcasted, to get more visibility; whereas, furthermore, it has boosted the development of new online business models, creating new ways of generating revenue; whereas, at the same time, it has facilitated the illegal online transmission of sports broadcasts and online piracy within and outside the Union, which is detrimental to both professional and grassroots sports and threatens the organisation and sustainability of sports events, as well as the financial stability of the whole sports sector;

I. whereas the protection of intellectual property rights is a fundamental right enshrined in the Charter of Fundamental Rights; whereas the meaning and scope of the fundamental rights enshrined in the Charter are to be determined in accordance with the corresponding case law of the European Court of Human Rights;

J. whereas fan culture, which is built upon the freedom to share and live the sports experience both in real time and preceding or following live sports events, is an essential element of the role that sport plays in European society;
K. whereas the illegal transmission of sports events and the dissemination of illegal content online not only cause significant economic harm to the sports sector, resulting in losses in subscription and advertising revenue, but are also harmful for end users, such as fans and consumers, due for example to such end users being exposed to personal data theft, malware or other online related forms of harm or detriment; whereas illegal broadcasts of sports events is often part of the growing activities of criminal organisations; whereas online piracy not only affects live sports broadcasts available through subscription services, but also free-to-air broadcasts of sports events;

L. whereas the COVID-19 pandemic and the restrictions of access to sports events have led to a drop in the sale of tickets for sports events and at the same time created opportunities for developing subscriptions to sports channels, and for enlarging online and television broadcast audiences, as well as for illegal streaming of sports events;

M. whereas, unlike other sectors, most of the value of a sports event broadcast lies in the fact that it is live and most of that value is lost when the event ends; whereas illegal streaming of sports event broadcasts is at its most harmful in the first thirty minutes of its appearance online; whereas, consequently and only in this context, an immediate reaction is needed to put an end to the illegal transmission online of sports events;

N. whereas action should focus on where illegal content streams originate, namely illegal website enablers, and not on individual users, such as fans and consumers, who unwillingly and unknowingly are involved in illegal streaming;

O. whereas, in recent years, new multimedia channels have proliferated for the illegal distribution of live sports events, among which the illicit use of Internet Protocol Television (IPTV) stands out due to its increasing volume;

P. whereas the illegal transmission of a whole sports event is to be distinguished from short sequences shared among and by fans that pertain to a fan culture, in order to highlight incidents of, for example, hate speech and racism taking place; whereas such illegal transmissions are also to be distinguished from content legally shared under limitations and exceptions provided for in copyright law, or content shared by journalists for the purpose of informing the general public, as set out in the Audiovisual Media Services Directive; whereas the measures aimed at protecting broadcast rights against illegal use and piracy must not affect press freedom or the news media’s ability to inform citizens;

Q. whereas certain major sports events are of general public interest and access to real-time information about them should therefore be guaranteed for all citizens and not be subject to undue or illegal restrictions; whereas this also concerns the journalists and news reporters who may provide such real-time information; whereas Member States should support the broadcasting of major sports events free-to-air, as a form of popular culture that plays an important part in the lives of citizens;

R. whereas the number of rightholders, intermediaries and other service providers which develop software tools able to identify illegal broadcasting of live sports events with a minimum margin of error is steadily increasing; whereas, at the same time, the reliability of notifications issued by those rightholders, intermediaries and other service providers depends on the accuracy and technical quality of the software tools they deploy to identify illegal broadcasting of live sports events;
S. whereas those rightholders, intermediaries and other service providers whose software tools are able to effectively and reliably identify illegal broadcasting of live sports events should be considered as “certified trusted flaggers”; whereas the fulfilment of quality and accuracy standards should be required in order to be legally considered a certified trusted flagger; whereas a certificate based on common Union requirements would be the preferred option to ensure a coherent and effective recognition of trusted flaggers;

T. whereas research and innovation to develop improved software tools to identify and report illegal broadcasting of live sports events should be promoted by the Union and the Member States;

U. whereas sports events are not the subject matter of copyright protection under Union law, but as such they have a unique and, to that extent, original character which can transform them into subject-matter that is worthy of protection comparable to that of copyright works; whereas there is no harmonised protection in Union law for sports events organisers as such; whereas, however, specific protection for sports events organisers is provided for in the legislation of some Member States, generating legal uncertainty and fragmentation of the Union regulatory framework;

V. whereas Union law provides for a general framework for notice and action mechanisms enabling the removal of, or disabling of access to, illegal information stored by intermediaries; whereas Union law provides for civil enforcement measures that judicial or administrative authorities can take under certain conditions to prevent or to block intellectual property rights infringements;

W. whereas, however, the current legal framework does not allow for the necessary immediate action needed to remedy the illegal broadcast of live sports events; whereas, moreover, some Member States have adopted rules on notice and action mechanisms that are not harmonised at Union level;

**Introduction and general remarks**

1. Requests that the Commission, after carrying out the necessary impact assessment, submit without undue delay, on the basis of Article 114 TFEU, a proposal for legislative acts, following the recommendations set out in the Annex hereto;

2. Considers that sport makes a significant contribution to social inclusion, education and training, job creation, employability and public health in the Union; considers, also, that the revenues stemming from the organisation of sports events should contribute to a larger extent to the financing of sporting activities that are beneficial to society, thus reflecting the social importance of sport; notes that in many European countries money allocated to grassroots sport depends directly on revenue from sports broadcasting rights; highlights, therefore, the need for reinforced financial solidarity in the sports ecosystem and notes that a part of such revenue should be directed towards the development of grassroots sports, para-sports and sports that get less media coverage;

3. Recalls the statement of the Commission included as an Annex to the Resolution of the European Parliament on Copyright in the Digital Single Market adopted in March 2019, according to which “the Commission will assess the challenges of sport event organisers in the digital environment, in particular issues related to the illegal online transmissions of sport broadcasts”;
Sports events and intellectual property rights

4. Notes that sports events as such cannot be subject to copyright protection; recalls that Union law, unlike the law in some Member States, does not provide for a specific right for sports events organisers; recalls that some Member States grant the possibility of the so-called “house right” protection, based on the contractual relationship, and Union law grants a neighbouring right to the producers of the first fixations of films, in respect of the original and copies of their films; acknowledges that legal protection, including intellectual property rights, is important for sports events organisers, in particular in relation to the licensing of broadcasting rights for the sports events they organise, as the exploitation of those rights represents a relevant source of income, followed by sponsorship, advertising and merchandising;

5. Stresses that infringement of broadcasting rights in sport threatens its long-term funding;

Online piracy of live sports event broadcasts

6. Considers that tackling online piracy of sports events that are broadcast “live” and the economic value of which lies in the “live” nature of the broadcast is the main challenge that sports events organisers face requiring a legislative response at Union level;

7. Observes that the illegal streaming of sports events is a growing phenomenon that is harmful to the sports ecosystem and to end users, who could be exposed to different forms of harm such as identity theft, malware (e.g. coming from free apps, or theft of credit card authentication and of other personal data), or other online-related forms of harm or detriment;

8. Notes that sports events organisers invest significant financial, technical and human resources to address online piracy and engage with service providers;

9. Considers, at the same time, that sports events organisers should contribute to a European sports model that contributes to the development of sport and is in line with social and educational objectives;

10. Underlines that the legal provision of sports content should be better promoted in the Union and calls on the Commission to take measures that make it easier for consumers to find legal means of accessing sports content online; calls on the Commission to regularly update the list of such means of access on Agorateka.eu and to ensure that the platform is further developed; stresses that liability for the illegal broadcasting of sports events rests with the providers of streams and platforms and does not lie with fans or consumers, who often unintentionally come across illegal online content and should be further informed on the legal options available;

Need for effective enforcement of rights

11. Stresses that, given the specific nature of live sports event broadcasts and the fact that their value is mainly limited to the duration of the sports event in question, enforcement procedures need to be as swift as possible; considers, however, that the current legal framework for injunctions and for notice and take down mechanisms does not always sufficiently guarantee an effective and timely enforcement of rights to remedy the illegal broadcast of live sports events; considers, therefore, that concrete measures that are specific to live sports event broadcasts should be adopted as soon as possible to adapt the current legal framework to, and render it suited for, these specific challenges;
12. Calls for the removal of, or the disabling of access to, infringing live sport broadcasts by online intermediaries to be immediate or as fast as possible, and in any event no later than within 30 minutes of the receipt of the notification from rightholders or from a certified trusted flagger regarding the existence of such illegal broadcast; underlines that in the context of the current resolution, “immediate” is intended to be understood as immediately or as fast as possible and in any event no later than within 30 minutes of the receipt of notification from rightholders or from a certified trusted flagger;

13. Is of the view that real-time take down should be the objective pursued in cases of infringing live sports event broadcasts, provided that there is no doubt about the ownership of the right concerned and the fact that the transmission of the sports event in question was not authorised; stresses, nevertheless, that any such measures must respect the general legal principle of not imposing a general obligation to monitor;

**Cross-border enforcement of rights**

14. Underlines, also, that the general framework provided for by Union law is not applied uniformly at national level and that civil procedure and notice and take down mechanisms differ from one Member State to another; is of the view that enforcement tools in the cross-border context lack efficiency; calls for further harmonisation of the procedures and remedies in the Union to address, in the context of the Digital Services Act package and other potential legislative proposals the specific nature of live sports event broadcasts;

15. Stresses that national enforcement agencies and authorities are struggling with challenges such as a lack of resources and trained staff; underlines the importance of close collaboration and exchange of best practices between relevant authorities at Union level, national authorities and relevant actors, to improve the overall legal infrastructure throughout the Union;

**Notice and action procedures**

16. Recalls that the Directive on electronic commerce provides that certain online service providers are to act expeditiously to remove or disable access to illegal information they store, upon obtaining actual knowledge or awareness thereof, through notices submitted to them; maintains that the notice and action procedure should form the basis for measures addressing illegal content in the Union; considers, however, that the current notice and take down procedure does not allow for swift enforcement in a way that provides effective remedies, considering the specific characteristic of “live” sports events; underlines that any provision to be adopted, governing a specific subject matter, must be in line with the general framework set by the relevant Union law;

17. Recalls Parliament’s resolution on a Digital Services Act: adapting commercial and civil law rules for commercial entities operating online1, which requests the Commission to ensure that content hosting platforms act expeditiously to make unavailable or remove content; is of the view that a mechanism involving certified trusted flaggers, through which an illegal broadcast of a live sports event notified by a certified trusted flagger is immediately removed or access to such a broadcast is disabled, without prejudice to the implementation of a complaint and redress mechanism, should be set up;

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1 Texts adopted, P9_TA(2020)0273.
18. Stresses that sports content is often technically processed, which leaves no room for doubt about who has the right to broadcast it online, and that sports event organisers - as rightholders - know all their official licensees, which allows for unequivocal detection of illegal streaming services;

19. Insists that providers of streaming servers and streaming platforms should implement specific take down tools or measures, in order to remove or disable access to illegal live sports event broadcasts available on their services;

**Blocking injunctions**

20. Notes that injunction procedures are relatively long and usually come into effect after the broadcast has ended; points to the existence of practices developed at national level, such as live injunctions and dynamic injunctions, that have proved to be a means of tackling piracy of sports event broadcasts more efficiently; calls on the Commission to assess the impact and appropriateness of introducing injunction procedures aimed at allowing real-time disabling of access to, or removal of, illegal online live sports event content, based on the model of “live” blocking orders and “dynamic injunctions”;

21. Insists that injunction procedures to remove or disable access to illegal sports events broadcast online, irrespective of the manner of their implementation, must ensure that the measures strictly target illegal content only and do not lead to the arbitrary and excessive blocking of legal content; points to the case-law of the European Court of Human Rights according to which the illegal nature of specific content does not justify the collateral blocking of legal content hosted by the same website or server;

**Safeguards**

22. Acknowledges that real-time blocking could affect fundamental rights if it exceptionally rendered legal content inaccessible; emphasises, therefore, the need for safeguards to ensure that the legal framework strikes the right balance between the need for efficiency of enforcement measures and the need to protect third party rights; considers, in that regard, that the enforcement measures for the protection of live content should be effective and proportionate, in particular for small businesses, SMEs and start-ups, and should include providing access to effective judicial remedies, appropriate information about the alleged infringement for the affected service providers and internet users, and adequate safeguards in relation to the protection of fundamental rights and of personal data;

**Neighbouring right and sui generis right for sports events organisers**

23. Notes that Union law does not provide for a neighbouring right to copyright for sport events organisers but that some Members States have introduced specific rights for sports events organisers in their legislation, including a new “neighbouring right” to copyright;

24. Considers that the creation in Union law of a new right for sports events organisers will not provide a solution as regards the challenges they face that arise from a lack of effective and timely enforcement of their existing rights;

**Other measures**
25. Calls for cooperation between Member States authorities, rightholders and intermediaries to be reinforced; further calls on the Commission, within its remit, to support Member States in their endeavours to improve existing infrastructure and measures;

**Final aspects**

26. Considers that the requested proposal does not have financial implications;

27. Instructs its President to forward this resolution and the accompanying recommendations to the Commission and the Council.
ANNEX TO THE RESOLUTION:
RECOMMENDATIONS AS TO THE CONTENT OF THE PROPOSAL REQUESTED

A. PRINCIPLES AND AIMS OF THE PROPOSAL REQUESTED

In order to provide appropriate and effective legal protection of rights regarding live sports events, the current Union legal framework should be amended. This shall be achieved taking into account the following aims and principles:

- to improve and make the current Union legal framework on enforcement of intellectual property rights with regard to live sports events more effective, considering its specific nature and in particular the short-term value of such events, on the basis of best practices in the Member States;

- to introduce a Union system establishing common criteria for the certification of “trusted flaggers”;

- to clarify the existing legislation and adopt concrete measures to ensure the immediate removal of, or disabling of access to, online illegal live sports event content, including online illegal live sports event content notified by a certified trusted flagger to tackle efficiently illegal broadcasts of live sports events; to understand “immediate” as meaning immediately or as fast as possible and in any event no later than within 30 minutes of the receipt of notification from rightholders or from certified trusted flaggers;

- to emphasise that intermediaries should put in place effective Know-Your-Business-Customer obligations to prevent their services from being abused to facilitate the illegal streaming of sports events; to that end, calls on the Commission to propose such obligations within the upcoming Digital Services Act;

- to further harmonise, where appropriate, procedures and remedies in the Union to improve and strengthen the efficiency of enforcement measures, including in the cross-border context, without prejudice to the general Union framework;

- to evaluate existing enforcement measures with a view to improving them and enabling the immediate take down of illegal live sport content, including illegal live sport content notified by a certified trusted flagger;

- to harmonise the use of swift and adaptable blocking procedures in the event of repeated already established infringements allowing for the immediate removal of, or the disabling of access to, illegal online live sport content, including when that illegal content is notified by certified trusted flaggers, based on the model of “live” blocking orders and “dynamic injunctions”;

- to ensure that the measures to be proposed take into account the scope, magnitude and recurrence of the infringement and to target illegal transmissions, excluding the recording and posting of illegal amateur footage of sports events;

- to ensure that the measures to be proposed are proportionate and keep the right balance between the need for the enforcement measures to be efficient and the need
to protect relevant third party rights, including those of service providers, fans and consumers;

- to clarify that the liability for the illegal broadcasting of sports events does not lie with fans and consumers;

- to complement the adaptation of the legislative framework with non-legislative measures, including reinforced cooperation between Member States’ authorities, rightholders and intermediaries;

B. ACTION TO PROPOSE

Without prejudice to the expected rules to be set out in a relevant Union law establishing general rules on tackling illegal content online, specific provisions regarding the rights of sports events organisers should be introduced in Union legislation, aimed, in particular, at:

- clarifying the concept behind the phrase “acts expeditiously” referred to in Article 14 of the Directive on electronic commerce in relation to an online intermediary, such that “expeditiously” is considered to mean immediately or as fast as possible and in any event no later than within 30 minutes of the receipt of the notification from rightholders or from a certified trusted flagger;

- establishing a common Union quality and technical reliability standard for software tools deployed by rightholders, intermediaries and other service providers, in order to identify illegal broadcasting of live sports events with a view to creating a certification scheme for “trusted flaggers”;

- providing that notifications issued by certified trusted flaggers are deemed to be accurate and reliable, and as a consequence, illegal online live sports event content notified by a certified trusted flagger should be immediately removed or access to it disabled, without prejudice to the implementation of complaint and redress mechanisms;

- allowing for immediate take down procedures targeting illegal live sports event content, provided that there is no doubt about the ownership of the right concerned and that the transmission was not authorised;

- ensuring that the measures to be taken by intermediaries are effective, justified, proportionate, adequate, taking into account the seriousness and the scale of the infringement, by making sure, for example, that the removal of, or the disabling of access to, illegal content does not require the blocking of an entire platform containing services that are legal;

- taking measures that make it easier to find legal means of accessing sports content, including by regularly updating the list of providers of such means on Agorateka.eu and ensuring that viewers are informed of such legal means and how to use such means to access content when the blocking measures are enforced;

- providing and actively supporting enforcement solutions, such as private agreements among stakeholders; in this respect, the Commission should report on and assess the appropriateness and impact of creating an obligation for online content providers to
perform immediate take downs to remove or disable access to illegal sports events broadcasts available on their services;

Directive 2004/48/EC (the Enforcement Directive) should be amended in order to:

- introduce the possibility for the relevant judicial or administrative authority to issue injunctions requesting the real-time disabling of access to, or removal of, illegal online live sports event content;

- allow the use of blocking injunctions that run during the entire live broadcast of a sports event, but are limited to the duration of the live broadcast, thus blocking the infringing website only for the duration of the event; such injunctions should be temporary;

- harmonise legislation allowing, where live sports events are concerned, for the use of injunctions that should have the effect of blocking the access not only to the infringing website, but to any other website that contains the same infringement, regardless of the domain name or IP address used, and without the need for a new injunction to be issued;

- specify that the removal of the illegal content should take place immediately, or as fast as possible and in any event no later than within 30 minutes of the receipt of the notification from rightholders or from a certified trusted flagger, provided that the illegality of the broadcast has been notified by a certified trusted flagger or, in case of unambiguity, by the rightholder himself; a strong indication should be given to the rightholders or certified trusted flaggers to prevent any removal of legal content; to that end, disabling access to or removing illegal content should in principle not necessitate blocking access to a server that hosts legal services and content;

- reinforce cooperation between Member States’ authorities, including by way of exchange of data and best practices and by creating an active and up-to-date network of national authorities; the Commission should assess the added-value of appointing an independent administrative authority in each Member State that would have a role to play in the enforcement system, especially in the case of swift enforcement, such as for online piracy of live sport content;

- reinforce the cooperation between intermediaries and rightholders, including by promoting the conclusion of Memoranda of Understanding that could provide for a specific notice and action procedure.