

## Lack of TRIS Notification and Concerns Over Impacts on Legitimate Websites and DSA Implementation

# Re: Italian Piracy Shield and Copyright Law Amendments

21 January 2025

### Ms Emmanuelle du Chalard

Head of Unit I.2. 'Copyright'

Directorate-General for Communications Networks, Content and Technology  
European Commission

### Ms Irene Roche Laguna

Head of Unit F.1. 'Coordination and Regulatory Compliance'

Directorate-General for Communications Networks, Content and Technology  
European Commission

### Mr Radek Maly

Head of Unit E.3 'Notification of Regulatory Barriers'

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs  
European Commission

Dear Ms du Chalard,  
Dear Ms Roche Laguna,  
Dear Mr Maly,

I am writing to you on behalf of the Computer & Communications Industry Association (CCIA Europe), a trade association representing a broad cross-section of computer, communications, and internet industry firms.

We are contacting you to draw your attention to two recent, problematic developments in Italy in the field of intellectual property law. Neither of the laws we outline below were submitted to the European Commission under the TRIS procedure, bypassing a critical review process that ensures national measures do not unduly affect Europe's internal market and that they are compliant with existing EU law. We believe that these two laws conflict with wider European law, as we describe in greater detail below.

First, we would like to highlight the [anti-piracy initiative](#) designed to block access to websites that illegally distribute copyrighted content, the so-called '[Italian Piracy Shield](#)'. Under this system, rightsholders can report domains suspected of hosting pirated material to the Italian Audiovisual Authority (AGCOM), which then instructs internet service providers (ISPs) to restrict access of their users to these sites within a strict 30-minute timeframe.

While this approach aims to protect intellectual property and reduce online piracy, it relies on IP address and domain name system (DNS)-level blocking, making it a potentially extremely blunt instrument to address online copyright infringement. Furthermore and also

of significant concern, Italian authorities have included virtual private networks (VPN) and public DNS resolvers in the Piracy Shield, which are services fundamental to the protection of free expression and not appropriate tools for blocking.

Despite its positive intentions and attempts to limit the infringement of Intellectual Property rights in Italy, the Piracy Shield raises a significant number of concerns which can inadvertently affect legitimate online services, primarily due to the potential for overblocking. This is something that has in fact already happened, as we illustrate later in this letter.

Indeed, AGCOM has introduced a platform for implementing the Piracy Shield which aims to automate the blocking process by allowing rights holders to submit IP addresses directly through the platform, following which ISPs have to implement a block. Verification procedures between submission and blocking are not clear, and indeed seem to be lacking. Additionally, there is a total lack of redress mechanisms for affected parties, in case a wrong domain or IP address is submitted and blocked.

Additionally, the fact that the Piracy Shield platform was developed for AGCOM by a company affiliated with Lega Serie A, which is one of the very few entities authorised to report, raises serious questions about the potential conflict of interest exacerbating the lack of transparency issue.

The 30-minute window leaves extremely limited time for careful verification by ISPs that the submitted destination is indeed being used for piracy purposes. Additionally, in the case of shared IP addresses, a block can very easily (and often will) restrict access to lawful websites – harming legitimate businesses and thus creating barriers to the EU single market. This lack of oversight poses risks not only to users' freedom to access information, but also to the wider economy. Because blocking vital digital tools can disrupt countless individuals and businesses who rely on them for everyday operations. As other industry associations have also underlined, such blocking regimes present a significant and growing trade barrier within the EU.

The Italian Piracy Shield should at the very least incorporate more robust verification protocols and significantly enhance transparency, as well as adequate redress mechanisms for affected users, to reduce these negative impacts. Concerns are not only raised by the digital sector, but are [also shared](#) among [members of the AGCOM council](#). This approach also appears not to be aligned with the [Commission's Recommendation](#) on combating online piracy of sports and other live events, adopted in April 2023. Indeed, the Recommendation advises building in redress mechanisms and transparency requirements when developing and using technical solutions to combat online piracy.

A recent incident that affected Google Drive illustrates the problem very well. On 20 October 2024, Google Drive was mistakenly blocked by the Piracy Shield system, causing a three-hour blackout for all Italian users, while 13.5% of users were still blocked at the IP level, and 3% were blocked at the DNS level after 12 hours. Because Google Drive's domain was reported as hosting pirated content, access was temporarily cut off for all users in Italy who rely on this platform for work, education, and personal use. This unintended country-wide outage highlights the real-world consequences of a system without adequate safeguards. A similar error in the future could disrupt essential services and would certainly undermine trust in Italy's digital infrastructure.

In addition to the lack of notification of the Italian Piracy Shield to the European Commission under the TRIS procedure, we believe that as it stands, this anti-piracy mechanism is in breach of several other EU laws. That includes the Open Internet Regulation which prohibits ISPs to block or slow internet traffic unless required by a legal order. The block subsequent to the Piracy Shield also contradicts the Digital Services Act (DSA) in several aspects, notably Article 9 requiring certain elements to be included in the orders to act against illegal content. More broadly, the Piracy Shield is not aligned with the Charter of Fundamental Rights nor the Treaty on the Functioning of the EU – as it hinders freedom of expression, freedom to provide internet services, the principle of proportionality, and the right to an effective remedy and a fair trial.

Second, recent [amendments](#) to Italian copyright law introduce obligations that contradict the principles set forth in the European Union’s DSA, further complicating the intellectual property landscape in Italy and Europe by extension. These amendments mandate all intermediary providers to report any knowledge of illegal activity, even minor copyright infringements, or face up to one year of imprisonment if they fail to comply. At the EU level, the DSA specifically limits intermediary providers' liability, stating that they are not responsible if they do not actively engage in the transmission and, in the case of caching and hosting providers, if they remove or clear the cache of infringing content once made aware of it.

Under the DSA, the obligation to report suspicions of criminal offences applies only to hosting providers and solely when the content poses a risk to the life or safety of a person. The Italian copyright law’s new blanket requirement for all intermediaries – regardless of their type and the nature or significance of the offence – appears out of step with the EU’s core legal principles of necessity and proportionality.

It is important to highlight that the referenced amendments, which introduced broad reporting obligations and criminal consequences for non-compliance, rely on the improper definition of “information society service providers” to identify the entities subject to the regulation. This extensive definition includes entities such as e-commerce platforms that operate outside the scope of activities relevant to combating online piracy. As a result, the regulation’s application is disproportionately extended, exceeding the original objectives of the legislative initiative and unnecessarily involving entities whose services are not directly aligned with its purpose. In light of these considerations, it is deemed necessary to amend the regulation to more clearly specify the entities subject to its provisions, limiting its application to operators directly involved in sectors critical to the fight against online piracy as outlined by the DSA.

The swift implementation of these amendments has also raised concerns about transparency in the legislative process. Italy employed a fast-track procedure, integrating these amendments into a larger Omnibus Decree, alongside unrelated initiatives on tax and budget. Proposed on 9 August and already having entered into force on 8 October, minimal time was allowed for public scrutiny or feedback, which should also have undergone its own TRIS procedure, before being implemented.

In light of the above, CCIA Europe urges the European Commission to engage with the Italian authorities and government in order to ensure lawfulness and consistency across the European Union when it comes to the fight against piracy and copyright infringement.

To that effect, the Italian government should withdraw the above-mentioned legislation in order to go through the TRIS procedure, allowing the Commission and other Member States to review the substance of these flawed and ineffective initiatives, and address their infringement of European laws.

We thank you for your attention to this pressing matter, and remain at your disposal should you have any questions.

Sincerely,

Mathilde Adjutor  
European Parliament and Consumer Lead, CCIA Europe

Claudia Canelles Quaroni  
Privacy and Safety Lead, CCIA Europe

## About CCIA Europe

The Computer & Communications Industry Association (CCIA) is an international, not-for-profit association representing a broad cross section of computer, communications, and internet industry firms.

As an advocate for a thriving European digital economy, CCIA Europe has been actively contributing to EU policy making since 2009. CCIA's Brussels-based team seeks to improve understanding of our industry and share the tech sector's collective expertise, with a view to fostering balanced and well-informed policy making in Europe.

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### **For more information, please contact:**

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