



# COPYRIGHT INFRINGEMENT NOTICE

**Copyright infringement notices** are used to formally notify an infringer or online service provider (OSP) that their content needs to be taken down.



## Safe harbour protection

OSPs (social media platforms such as Facebook, YouTube or Instagram, and companies that host websites) benefit from the 'safe harbour principle' under the EU law.

The safe harbour protection is granted by Digital Service Act (DSA). [According to Article 6 of the DSA](#), which mirrors [Article 14 of e-Commerce Directive](#), the OSPs cannot be held liable in a criminal case unless actual knowledge of infringement exists or awareness of facts or circumstances from which infringement is apparent is proven in the trial.



## Safe harbour protection confirmed by the European Court of Justice

The CJEU confirmed safe harbour protection in a number of its cases. For example, in the [Google France](#) and [L'Oreal](#) cases the CJEU indicated that Article 14 of the e-Commerce Directive applies to online intermediaries. The CJEU further developed the distinction between 'passive' and 'active' role of the online intermediaries.



## Additional obligations set in [Copyright Directive](#)

For a specific group of online intermediaries defined by the Copyright Directive as 'online content-sharing providers' (OCSSPs), uploads of infringing works by their users result in direct liability, and they are required to undertake 'best efforts' to obtain authorisation for such uploads. With this new responsibility come further obligations that oblige OCSSPs to make best efforts to ensure that works for which they have not obtained authorisation are not available on their services.

## Different definitions of online service providers

**OSP** is an entity that offers the transmission, routing, or providing of connections for digital online communications. In simple terms, an OSP is a provider of online services or network access

**OCSSP** is defined as a service provider of which the main or one of the main purposes is to store and give the public access to a large amount of copyright-protected works or other protected content uploaded by its users, which it organizes and promotes for profit-making purposes. Article 17 thus applies not only to large content providers such as YouTube, Dailymotion and Vimeo, but to any type of user-upload service provider that fits the broad definition.

## Notice and takedown mechanism

OSPs are obliged to remove copyright infringing content after receiving a notification about such content.

Find out more about the newly adopted DSA and its interplay with the Copyright Directive in IPC Factsheet.



# How to submit Copyright Infringement Notice?

## STEP 1

### Identify the infringement

Identify what is the stolen work, who is using it, and where it is located.

## STEP 2

### Collect the evidence

This may include screenshots, links or the exact location of the copyright-infringing content.

## STEP 3

### Send the notice

Ensure that the copyright infringing notice meets the form requirements, addresses the appropriate OSP and informs law enforcement authorities.

There is no defined notice title or form, as long as it meets the content requirements.

### Sample Copyright Infringement notice

### Some OSPs have standardised notification forms

Reporting a violation or infringement on [Facebook](#)



Submit a copyright removal request on [YouTube](#)



Submit a report form on [Instagram](#)



Verified rights owner program on [eBay](#)



Help portal on intellectual property issues on [Twitter](#)



Find out more about the content requirements for a copyright infringement notice.

#### Notice of Copyright Infringement

To: [Name of the OSP],

CC: **Relevant police authority (in case of repeated copyright infringements)**

[name and contact details of the relevant authority]

Your website includes material that is infringing copyright [copyright holder details].

#### 1. Copyright-protected material

[detailed description of copyright-protected material].

This material is protected by [indicate law of registration].

#### 2. Infringing material

[unauthorised and infringing material on your website is located at: ]

#### Statement of good faith:

I am providing this notice in good faith, with a reasonable belief that the use of the protected material described above is used without the authorisation of the copyright owner, or the law.

I request the immediate removal of the infringing material, described above, from your services.

Please inform me of the actions taken to stop infringing activity at [provide email address]

Contact details [provide your contact details]

## Whom to address?

The copyright infringement notice has to be addressed to the relevant OSP.

The police and prosecution service must be notified of the repeated copyright infringements in order to initiate criminal proceedings or join an ongoing case(s). If the relevant authorities are not notified, the argument that the OSP was unaware of the infringement may be used at trial.

QUICK TIPS

While the law enforcement authorities are not always able to follow up each copyright-infringing post, they will be able to act in case of repetitive infringements or violation of a high number of copyright protected material. Therefore, each notification is essential in building links between the criminal cases.

## Who can request for a takedown?

Generally, **only copyrights owners or their representatives can report the infringement**. This requires a detailed description of the copyright ownerships status. If the notice is filed by a legal representative, an official power of attorney must be attached.

## Obligation to identify copyright-infringing material

Provide a **specific description of the protected** material, such as the name, type of the work, author, link to where it is available lawfully and any other relevant information. If there are more protected works, compile them in an easy to process manner, such as excel sheet (for example, a list of illegally hosted movies).

Protected files (aka files that cannot be edited) should be provided during criminal investigations to ensure their reliability as evidence in court. However, in order for OSPs and law enforcement agencies to efficiently process large amounts of data, an editable version of the document containing a list of infringing material could be provided in addition to the protected file.

## Obligation to describe the infringement

The description of infringing material entails the following obligations:

1. **Detailed explanation** of why the content is illegal. Describe the content and which parts of it were made available without the owner's permission.
2. **Exact location** of the infringing content. Provide the website URL where the infringing material is located.

QUICK TIPS

Please keep in mind that the URL you see may not correspond to the actual location. Please be cautious and provide the OSP-specific links. Do not use link compressors/URL shorteners.

## Statement of good faith

Newly adopted DSA removed the **presumption of good faith** set in Article 5 of the e-Commerce Directive. This requires the inclusion of the statement of good faith in the copyright infringement notice.

## Obligation to provide contact details

The name and contact details of the notifier are required under the DSA in the event of a notification of copyright infringing content (with the exception of notices of offences referred to in Articles 3 to 7 of Directive 2011/93/EU on sexual abuse and exploitation of children).

Under the Copyright Directive, the notifier may include contact details, but they are not required.

QUICK TIPS

Article 17 of the Copyright Directive indicates that the notice must be 'sufficiently substantiated'. This term is further explained in the Commission's guidance, which is of a recommendatory nature.

Scan to  
find out  
more about  
Eurojust's IPC  
Project



This flyer was prepared by the Intellectual Property Crime (IPC) Project at Eurojust. The IPC Project is funded by the European Union Intellectual Property Office (EUIPO). The Project aims to boost cooperation and ensure a more coherent and robust response against IP infringements across the EU.

PDF: Catalogue number: QP-04-22-304-EN-N; ISBN: 978-92-9490-853-7; DOI: 10.2812/80213