

05 September 2022

Code of Conduct for the handling of decisions regarding the blocking of access to services which infringe intellectual property rights

Concluded between the Danish Telecom Industry Association and the Danish Rights Alliance.

The Danish Telecom Industry Association (TI) and the Danish Rights Alliance (RA) have concluded this Code of Conduct (CoC) to simplify and streamline the implementation of decisions regarding DNS blocking.

The CoC has been concluded following a request from the Danish Ministry of Culture as part of a range of initiatives to reduce the extent of rights violations on the internet. In this CoC, the term “decision” is defined as rulings on blocking geared towards an internet service provider (ISP) taken by a Danish court or a regulatory authority.

The CoC encompasses an annex which describes in more detail the simple steps in procedures and criteria. This Annex has not been made public for the sake of achieving the aims of the agreement. Technical specifications in this annex with regard to access to lists can be modified on an ongoing basis by written agreement between the Parties.

The CoC means that decisions on the blocking of websites in respect of a single TI member, or any other ISP domiciled in Denmark, via TI in a one-stop-shop procedure are implemented within 7 working days by TI members, including members’ subsidiaries and other affiliated companies.

Thus, the point of departure is that a rights holder, represented by the Danish Rights Alliance, goes to the court/the authorities with a request to block one or more Internet services due to rights infringements. The decision must include the specification of the particular websites that are to be blocked. In this regard, each of the involved parties cover their own costs. Prior to a blocking case, and in connection with the court case, RA must attempt to contact the service(s) in question and advise them of the case. This must be documented during the case.

If a court/relevant authority accepts the request and subsequently issues an injunction demanding that a specific TI member (or other Danish ISP) is blocked, Danish Rights Alliance will send this decision to TI. Immediately thereafter, TI will send the decision to TI members who, on the basis of this decision will implement DNS blocking of the website addresses stipulated in the decision. The blockings will be implemented as soon as possible and no later than 7 working days after TI has received the decision from RA.

The ISPs do not make any kind of assessment as to whether the DNS addresses in question are covered by the court’s/authority’s decision.

The communication on the blocked websites will be based on stop-side (stop-page), which refers to the platform ShareWithCare (www.sharewithcare.dk), which in a joint venture has

been developed in collaboration between the Danish Ministry of Culture, TI, RA as well as the confederation of Danish Industry (DI) and the Danish Chamber of Commerce.

Likewise, this CoC means that when website addresses other than those specified in the decision provide access to a service, if the website address(es) is/are blocked due to a decision, as described above, TI members will block these for further website addresses. This is provided that RA vouches for the fact that these website addresses also provide access to the service that is covered by the preceding court/regulatory authority decision.

The Danish Rights Alliance undertakes to detect and monitor which additional website addresses provide access to a service covered by a decision. RA also sends these website addresses to TI, which sends them to members with a view to blocking, cf. Annex.

Such a blocking is further based on the fact that RA has hereby committed itself to:

- Informing the service covered by the decision of the blocking, but only if this is practically possible.
- In all respects related to the blocking, to indemnify the ISP provider(s), for example, if the blocking of any further website addresses results in a court case and if, for example, the ISP provider(s) is required to pay compensation.
- Undertakes to assume full responsibility for the full case management and any communication relating to any claim for compensation from a third party.

This CoC is a voluntary agreement between TI members and RA. The CoC does not preclude a TI member from reserving the right to take the case to trial independently if this is required for special reasons. TI cannot be held responsible for the extent to which members comply with the agreement.

The CoC is entered into as a voluntary agreement with a view to promoting the enforcement of rights under current legislation. In the case of a change in prerequisites, the agreement will be revised or annulled.

Telecom Industry Association - Denmark (TI) Danish Rights Alliance (RA)

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Annex exempted from publication

Procedures and criteria

1. The rights holder, represented by the Danish Rights Alliance (RA) goes to a court in connection with the identification of illegalities in a service and the court makes a decision on DNS blocking geared towards a member of the Telecom Industry Association - Denmark (TI) or another Danish ISP. Alternatively, it may involve another regulatory authority which, on the basis of specific legislation, may issue an equivalent injunction. The court/authority makes a decision on DNS blocking directed towards the summoned ISP.
2. Prior to a blocking case, and in connection with the court case, RA must attempt to contact the service in question and advise them of the case if a contact person has been specified for the website. RA must advise the service that any further websites that provide access to the service are also infringing copyright laws, and that both current and forthcoming websites that provide access to the service could also therefore be blocked.
3. The Danish Rights Alliance sends TI a list of specific website address that are to be blocked, making direct reference to a court/regulatory authority decision. This list contains both website addresses specifically named in judgements and further website addresses which, according to the content of the ruling, may be added to the list of blocked website addresses once the judgement has been passed. The list is available for automatic downloading and RA notifies TI when the list is updated so that TI members can retrieve it automatically.

TI sends the list of specific website addresses that are to be blocked, along with the decision, to all TI members. The blocking is implemented no later than 7 working days after TI has received the list from RA and RA has notified TI that there is an updated version, respectively.

4. The Danish Rights Alliance undertakes to identify new website addresses that provide access to an illegal service covered by a decision by a court or regulatory authority. The criteria for RA including new addresses in a blocking list is that the new addresses provide access to the same illegal service that is covered by the court's decision and that the court's decision expressly also issues an injunction for the blocking of these new addresses and gives RA the right to add them after the judgement has been passed.
5. RA registers data which documents that it is a matter of website addresses that provide access to a service covered by a decision.
6. If a contact person is specified by the website address, RA will contact the service which the website address(es) give(s) access to and informs them that the website address(es) has/have been blocked because they provide access to an illegal service.

7. If RA subsequently registers the fact that further website addresses provide access to an illegal service covered by the blocking imposed by the court, RA will update the blocking list and forward it to TI, cf. point 3, as RA has assumed legal/financial responsibility to be able to prove that these website addresses provide access to a service covered by a decision.
8. The updated blocking list, cf. point 3, can be forwarded in two ways:
 - a) RA sends an Excel spreadsheet containing addresses that are to be blocked to TI
 - b) RA makes addresses that are to be blocked available on a dedicated server (www.swclisten.dk) from where the updated list can be extracted once a month as follows:

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curl -u "coc:GiveMeAList" https://swclisten.dk/latest.csv
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Username: coc

Code: GiveMeAList

As a rule, the update will appear monthly, but this can be changed by agreement, depending on the situation.

9. RA assumes legal/financial responsibility for the blockings and for the handling of any objections from a blocked service. RA thus holds any ISP indemnified for all claims for compensation related to blockings in accordance with the present CoC. This applies both to website addresses specifically named in judgements and further website addresses which, according to the content of the ruling, may be added to the list of blocked website addresses once the judgement has been passed.
10. RA reviews the list of blocked pages every six months with a view to removing inactive addresses. RA removes these addresses from the updated list on servers and also sends TI a separate list of pages that can be removed from the blocking list as inactive. However, this cleaning up procedure does not apply to those addresses which explicitly appear in the court's/regulatory authority's decisionⁱ.
11. RA is responsible for informing and updating internet providers other than TI members.

ⁱ Addresses which explicitly appear in the decision on blocking can, by the very nature of the case, only be removed by a new decision, and such a decision will entail a risk of 'recycling'.