



Online sale of goods infringing geographic indications

Session 2, panel 1 – Controls & enforcement 1: Domain Name System (DNS) and internet

Strengthening GIs, 25 /11/2020

Starting Point: e-Commerce Directive

Online market places

- Are not required to monitor the information which they transmit
- Are not required to actively to seek facts or circumstances indicating illegal activity
- Are are **not liable for the information stored by traders**

Starting Point: e-Commerce Directive

Online market places may be liable if they

- have actual knowledge of illegal activity or information
- upon obtaining such knowledge or awareness, do not act expeditiously to remove or to disable access to the information
- In other words

Notice and take down procedures

Notice and take down (NTDs)

- NTDs are not regulated
- And so the system is highly inefficient
 - Each market places has it own procedure, or even none.
 - Each right holder has its own manner of providing notice

Notice and take down (NTDs)

- EC 2018 Recommendation on measures to effectively tackle illegal content online
- Main principles that should guide service providers

The recommended principles of NTD

- NTDs mechanisms should be easy to access and use for all users.
- Notices should be precise and substantiated
- Hosting service providers should provide feedback (decisions and steps taken)
- NTDs procedures do not affect the rights of the parties involved to initiate legal proceedings.
- Alternative Dispute Resolution mechanisms are encouraged

The recommended principles of NTD

- Hosting service providers should regularly publish reports about those mechanisms
- They should also provide for clarity on their policies on the removal or disabling of access to the content that they store
- Hosting service providers should take proactive measures (for example automated means for the detection of illegal content)

Notice and take down procedures

- MoU on online sale of counterfeits
- The Digital Services Act
- The IP Action plan and the toolbox against counterfeiting



Thank you



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