

Press release for 11 March 2021

Joint solution for dealing with structurally copyright-infringing websites on the internet:

**Internet access providers and rightholders establish independent “Clearing Body”**

Berlin, 11 March 2021 – Internet access providers and rightholders in Germany have signed a joint Code of Conduct, “Clearingstelle Urheberrecht im Internet ([CUII](#))” [Clearing Body for Copyright on the Internet]. In the run-up, companies and associations from both sides had come together to develop a procedure to allow blocking of access to so-called “structurally copyright-infringing websites” on an out-of-court basis. Crucial to this procedure is that it will require a recommendation by a jointly established, independent clearing body presided by a retired judge at the Bundesgerichtshof [German Federal Court of Justice] and due confirmation by the German Federal Network Agency ([BNetzA](#)), in accordance with the EU Net Neutrality Regulation.

Structurally copyright infringing websites are websites which business model is directed at massive copyright infringements. They cause enormous economic harm to the creative industries every year by offering illegitimate access to copyright protected content and thus making legal services less viable. For the internet access providers, as mere intermediaries, the involvement of the BNetzA affords the necessary legal certainty. Moreover, it means the providers now have the prospect of legal peace after more than a decade of court disputes on the question under what conditions they are obliged to implement internet blocks under copyright law.

The express intention is that only in clear cases copyright infringing websites will be blocked. This means structurally copyright-infringing websites whose operators pursue a business model with which protected works, such as movies or songs, are made available without authorisation to a high number of users, thereby often generating high advertising revenues. The CUII will only issue a blocking recommendation following a unanimous agreement of the three-person review committee. The committee is chaired by renowned retired judges from the German Federal Court of Justice (Bundesgerichtshof) who are well-versed in the legal and technical aspects of the relevant area of law.

Other European countries already have models similar to the CUII. European law obliges Member States to ensure that rightholders have the possibility of applying for injunctions against internet access providers whose services are used by third parties for copyright infringements. In fact, the European Court of Justice ruled back in 2014 that the blocking of websites was an acceptable means of using internet access providers to bring an end to copyright infringements.

CUII blocking recommendations will be implemented using so-called DNS blocks. The provider reroutes the users concerned to a CUII website which provides information on the block. A request to implement a DNS block can be submitted to the CUII after attempts to prevent the copyright infringement through action against the operator of the infringing



website or its hosting service have proved unsuccessful or have no reasonable prospect of success.

Further information: [www.cuii.info](http://www.cuii.info)

Contact person: CUII Office, [presse@cuii.info](mailto:presse@cuii.info), Tel. : +49-30-30878099-0

Quotes:

The Berlin attorney at law Jan Bernd Nordemann was the moderator for the rightholders during the process of establishing the CBCI: "Unfortunately, there are structurally copyright-infringing websites across all industries: film, music, video games, books, magazines, sport. All too often it is impossible to take action against the operators directly because they are very adept at keeping their identity on the internet secret. The remaining avenue open to rightholders is therefore asserting blocking claims against internet access providers. With this in mind, the establishment of the CUII is a unique approach. For internet access providers, the self-regulation with state oversight ensures a high quality of assessment which they can rely on. For rightholders, it was important that the CUII was set up efficiently to enable it to check the required number of websites."

Judith Steinbrecher (Bitkom) was the moderator for the internet access providers: "With the establishment of the clearing body, we have jointly found a way to obtain independent, resilient and at the same time extremely high-quality professional decisions on how to deal with copyright blocking claims against internet access providers. Internet blocking can only be the last resort as a measure against copyright infringement. Internet access providers cannot be more than a helping hand and therefore welcome the solution found."

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