



**Annual Report
2019**

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Preface

2019 marked the 10-year anniversary of the lawsuit against the largest illegal file-sharing network at the time, Pirate Bay, and it was also the year where Supreme Court upheld a historic verdict in the case of sharing the illegal service Popcorn Time – two milestones in digital enforcement.

Although the cases against the two services have been essential to the work of enforcement on the illegal market, the digital crime is far more complicated today, and it is constantly evolving. Therefore, it requires resources and prompt action to curb new, complex methods of distributing and sharing illegal content.

The long-term goal of the Danish Rights Alliance's (RA) work is an Internet that reflects the same core values as the rest of our society. I.e. an Internet where regulations are supported both by good standards of behaviour and by relevant actors in society. And where it becomes possible to protect rights effectively.

In recent years, RA have succeeded in initiating a positive development that promotes the goal of securing rights on the Internet. It has produced a number of results: the establishment of a dedicated task force for dealing with IP crime at the State Prosecutor for Serious Economic and International Crime (SØIK), important lawsuits, which stands as milestones in the development of digital enforcement, and a solid collaboration with i.a. Ministry Of Culture and the Telecommunications Industry Association on blockings and Share With Care. The relevant actors are now agreeing on common values that support regulations and an effective protection of rights.

Despite the positive development, sufficient competences, tools and structures at the authorities are still absent, and the economic foundation for rights protection has not followed. It is still primarily the rights holders (members of RettighedsAlliancen) who finance the activities that fight the serious crime. One of the most important tasks of RA is therefore to secure the necessary commitment and develop the financial foundation as we fight the illegal market.

Organisation Information

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Agenda

Under the regulations, Rights Alliance's core task is to protect the rights of the creative industry on the Internet through enforcement and information.

Introduction

- status on the past year

The past year, 2019, RettighedsAlliancen (RA) have announced a number of major advances in the fight against the illegal market. We have made a number of successful blockings, which continue to have a great impact on the Danes' use of the illegal services. We have also continued our campaign activities in Os Der Elsker Viden (We Who Love Knowledge), whose messages have reached the students who increasingly share them with each other on the platforms where illegal buying and selling of textbooks most often takes place.

In addition, great progress and milestones have marked 2019, because we have managed to develop and improve our skills and tools as the illegal market has done the same. It is seen, among other things, in a number of blocking cases, which were the first of their kind in Denmark, regarding illegal streaming of live sports, 'stream ripping' services, illegal copying and sharing of news articles and their related visual material, as well as illegal copying and sharing of scientific articles.

But the illegal market is changing rapidly, and in 2019 we have seen an increase in the decentralization of the market for social media. Groups are created on Facebook dedicated to the illegal sale of everything from books to furniture, and movies are also illegally streamed in so-called 'cinema club' groups. Collaboration with the social media and other online platforms is thus an important and essential element in bringing the illegal sharing and the illegal sales to an end.

Therefore, the new Copyright Directive, in particular Article 17 on enforcement on online sharing platforms such as YouTube, has also played a part in the past year. In collaboration with Dansk Industry, RA held a seminar on the implementation of the directive in Danish law, where both Facebook and Google participated and joined in on a discussion on platform responsibility. In 2020, another seminar will followed up, this time to take stock of the implementation in Denmark and to draw experience from other EU member states on this important step.

In addition, 2019 has also been the year in which illegal TV services have made their advance on the Danish market. We have seen a wide range of media boxes being used illegally to watch the TV channels' offerings of flow TV, especially live sports, around distributors, which will also be a focal point in the coming year.

In this annual report, RA give an in-depth insight into the past year's work, successes and challenges, as well as gives a status and a deeper insight into what developments we see in the illegal market and the Danes' use of it.

Key Figures

- *Data and developments in the illegal market*

RA's work is largely based on data, as data gives a concrete picture of the behaviour of the Danes in the illegal market on the Internet, and thus also show how we can best respond to the illegal behaviour. The following section will delve into the exact data and developments we have seen in the Danes' behaviour and use of the illegal market online in 2019. Our data is partly collected from data provider SimilarWeb, which measures traffic to illegal websites and partly from the digital marketing agency Mediavision's annual user behaviour survey in the Nordic region.

The Danes' use of illegal websites

From 2018 to 2019 there has been a decrease in the number of Danish visits to websites with illegal content. In 2018, Danes visited illegal websites 239 million times, compared to 146 million times in 2019, which represents a 40 per cent decrease, as shown in Chart 1 below.

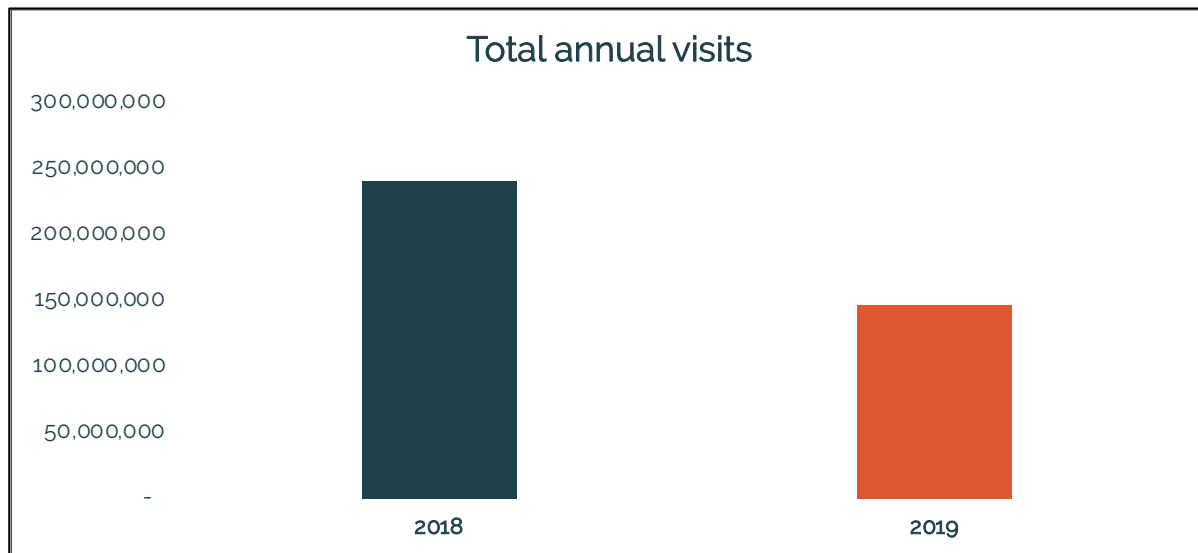


Chart 1) Comparison of annual visits from Danish IP addresses on illegal websites.¹

¹ SimilarWeb, RA's data provider of traffic figures for illegal websites, updated their data collection method and calculation models in the summer of 2019. This update has made the data base more accurate, but it has also necessitated that RA have had to adjust the traffic data for 2017 and 2018, which were previously used in the 2017 and 2018 annual reports. In general, traffic data for the websites that the RA measure is lower after the summer 2019 update.)

Thus, on average, Danish users have visited illegal sites approx. 12 million times a month, as shown in Chart 2, but this also shows a 27 per cent decrease over the year, counted from January to December. A closer look at the individual months reveals a recognizable picture of greater activity in January, April, July, October and December, which are typically months with fluctuations in user behaviour, due to increased supply of larger film releases. And precisely websites that illegally grant access to films and series make up eight of the ten most visited illegal sites, and thus remain the most widely used type of illegal content among Danes.

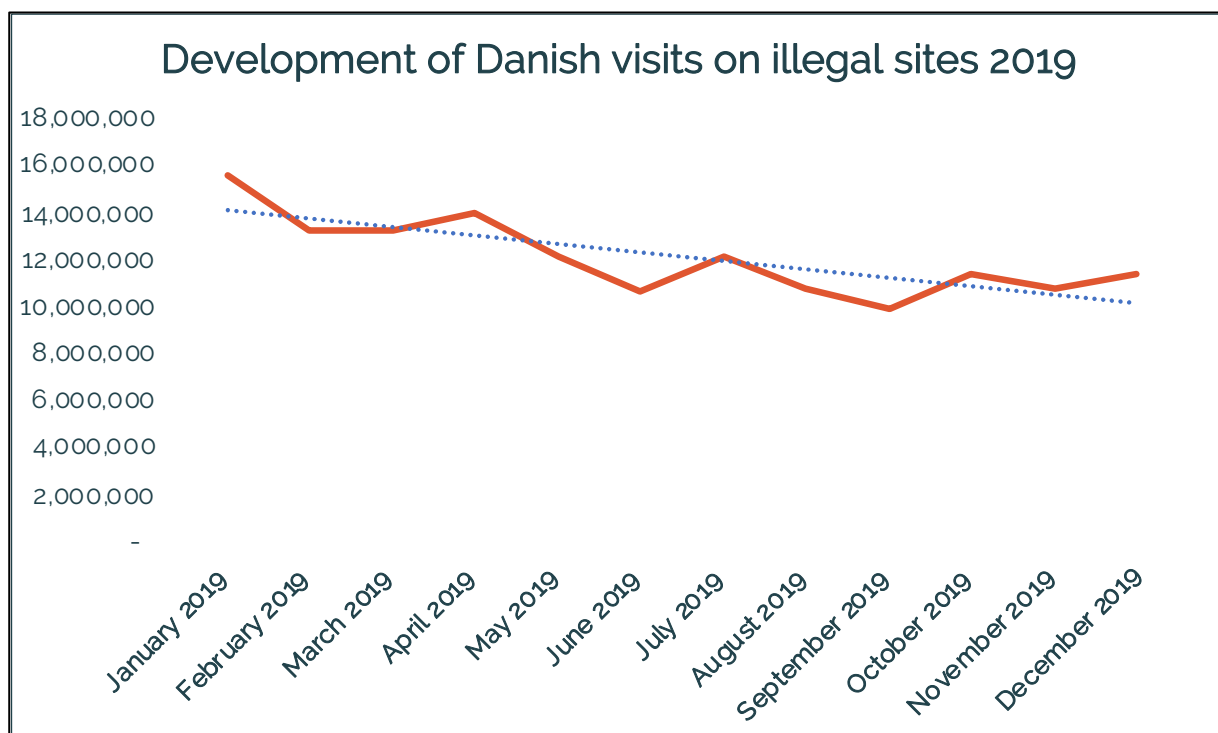


Chart 2) The number of Danish visitors on illegal websites from January to December 2019

However, a 40 per cent reduction in the number of visits to illegal websites from 2018 to 2019 does not mean that fewer users are using the illegal sites. According to Mediavision's annual survey of user behaviour in the Nordic region, the proportion of Danish 15 to 74-year-olds who download or stream movies and series is stable at 10 per cent, which it has done since 2016. This corresponds to approx. 450,000 Danes annually using the illegal sites. An explanation for the decreased number of visits, but stable number of users, we attribute partly to the effect of the blockings, but there are other causal explanations; the Mediavision study points to the Danes' use of so-called VPN connections and the use of alternative DNS providers, which makes it possible to circumvent the blockings.

The Danes use of VPN and alternative DNS

VPN connections allow users to access the Internet from foreign IP addresses, rather than the user's own Danish IP address. There may be legitimate reasons for this, but this functionality is also used to circumvent blocked websites. According to Mediavision's survey, 44 per cent of Danes, who illegally downloaded or streamed movies and series in 2019, use VPN connections, as shown in Picture 1. The same picture shows that if you look at the Danes who do not download or stream illegally, only 17 per cent use VPN connections. The study thus shows that VPN connections are very widespread among those who are streaming and downloading illegally, and since their use of illegal websites is not included in the aforementioned 146 million visits, the figure may actually be higher.

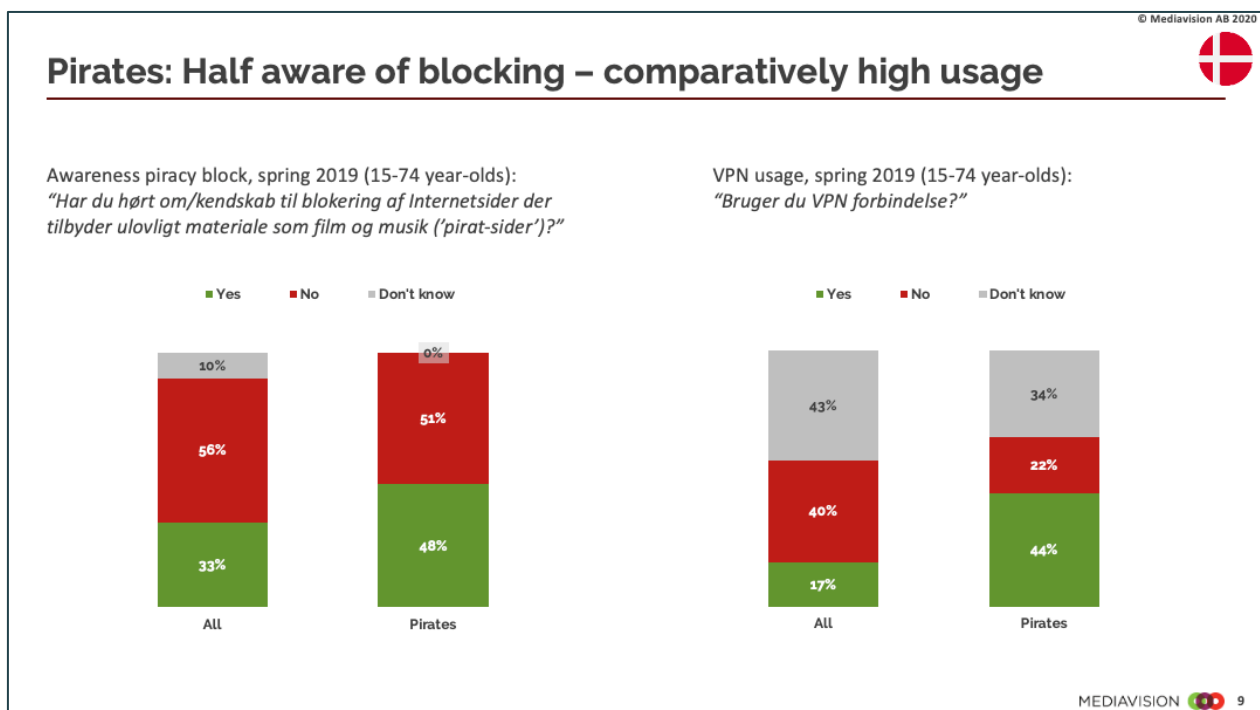


Image 1) Excerpt from Mediavision's report showing that Danish cyber pirates make more use of VPN connections than the remaining population in Denmark.

Similarly, the so-called alternative DNS providers are also used more by Danes who illegally download or stream movies and series than the general population. Alternative DNS providers, such as OpenDNS and Google DNS, have not, in the same way as the Danish telecom providers, implemented the blockings of illegal websites that are judged by Danish courts.

Therefore, alternative DNS, like VPN connections, can be used to circumvent blockings. 10 per cent of Danes who do not stream or download illegally have heard of alternative DNS providers, and out of them, 35 per cent use them. If you look at the

Danes who are streaming and downloading illegally, 23 per cent have knowledge of DNS providers and a total of 97 per cent of these use them.

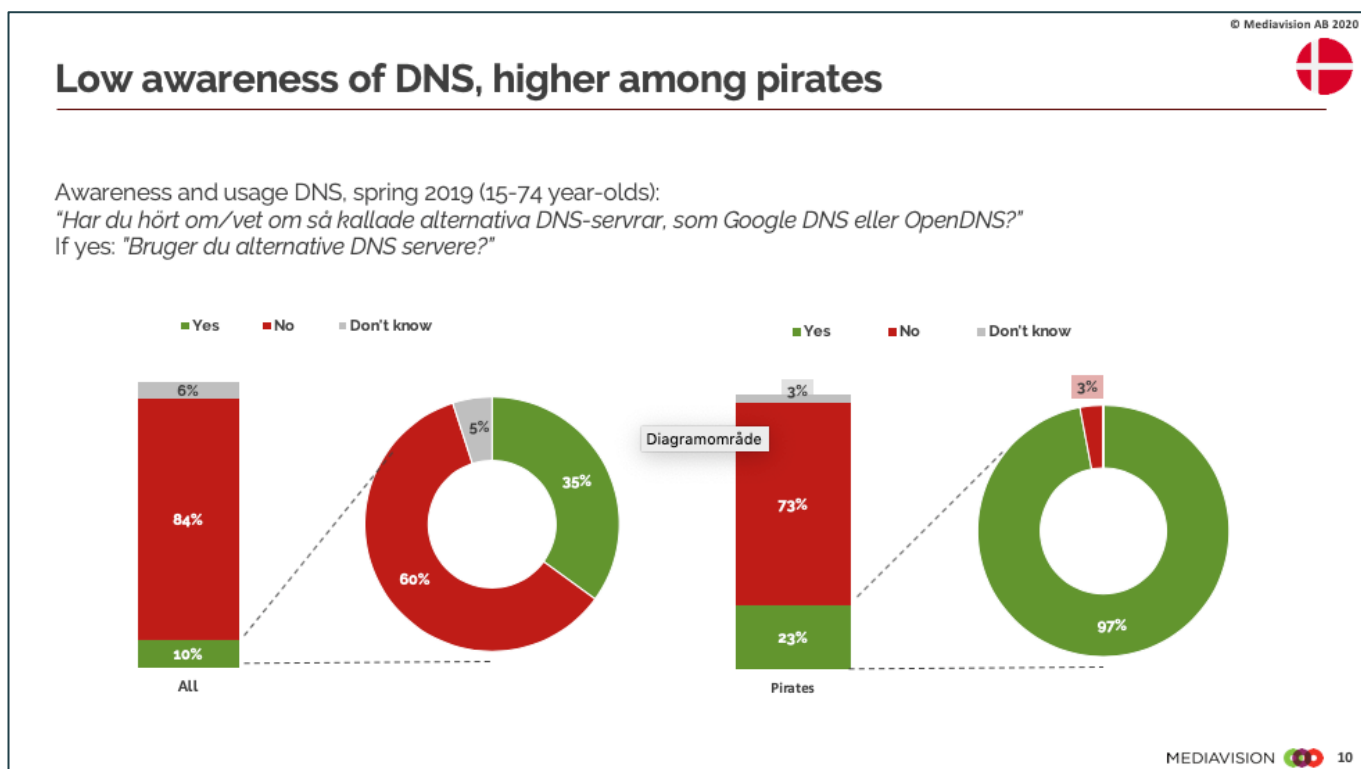


Image 2) Excerpts from Mediavision's report showing that Danish cyber pirates are more aware of and more frequently use alternative DNS providers than the remaining population in Denmark.

The conclusion of Mediavision's user survey and RA's data collection shows that although the number of Danish visits to illegal websites has decreased by 40 per cent from 2018 to 2019, the number of users remains stable. The relatively large drop in visits compared to the stable number of users can partly be attributed to RA's enforcement efforts, among other things, with regard to blocking the illegal services and partly the illegal users' proven use of VPN connections and alternative DNS providers.

However, despite the drop in 2019, 55 million movies and series are still being downloaded and streamed in Denmark, which just underlines that continued efforts are needed to bring the use of illegal services to an end.

As far as other product types are concerned, our insight into the development is based on the manual monitoring that RA do on various online platforms, e.g. in relation to textbook distribution and design copies. Here we see a comprehensive distribution in closed groups on Facebook and in online marketplaces such as DBA and Gul & Gratis. Among other things, a study conducted by RA in collaboration with Nota shows that 29 out of 45 textbooks, bought in closed Facebook groups as test purchases, came from

Nota. RA have also reported a case to the IP Task Force in SØIK, which deals with the illegal sale of 27 Nota files. Nota's library is reserved for students with reading difficulties, but the files are thus illegally redistributed in great style.

The effect of blockings

One of the most effective tools to prevent traffic from Danish users to illegal services is still blockings. During 2019, RA blocked a total of 141 illegal websites. The blockings are divided into three ordinary blocking waves (a single pile of cases against illegal services brought before a court), where 43 illegal services and their 84 mirror sites were blocked, as well as a case of replica design and four principle cases concerning websites that offer respectively live sports, news articles, scientific journals and stream ripping.

The effect of the blockings is on average a decrease in traffic to the websites concerned of 74 per cent². The reason why we do not get blocked for 100 per cent of the traffic must primarily be found in the following three conditions:

- i. The use of VPN connections and alternative DNS providers means that there are users that we cannot reach with our blocks.
- ii. There are a number of ISPs, typically housing associations, antenna associations and semi-public hot spots, such as municipal WI-FI, institutional networks and the like, that are not part of the blocking system. However, it should be noted that from 2020 the FDA (Forenede Danske Antenneanlæg) is included in the Code of Conduct on blockings of illegal sites, which is why they are now also blocking.
- iii. Missing blockings: On blocking wave 11, 12 and 13 we found that not all telecom providers block the illegal services, which unfortunately has a significant impact on the effect, which is obvious when compared to the blockings where all providers block. Since the data were collected, the telecom companies have corrected the missing blockings.

There is no doubt that the blockings have a major effect on illegal use. Comparing the development in the number of visitors to illegal services, covered by blocking wave 11 between Denmark, Norway and Sweden (Chart 3), Denmark has a decrease of

² Blocking wave 11 (75% decrease), wave 12 (52% decrease), wave 13 (70% decrease), Live sports (74% decrease). Media service (98% decrease).

respectively 38 and 52 percentage points more than Norway and Sweden, where there are fewer blockings³.

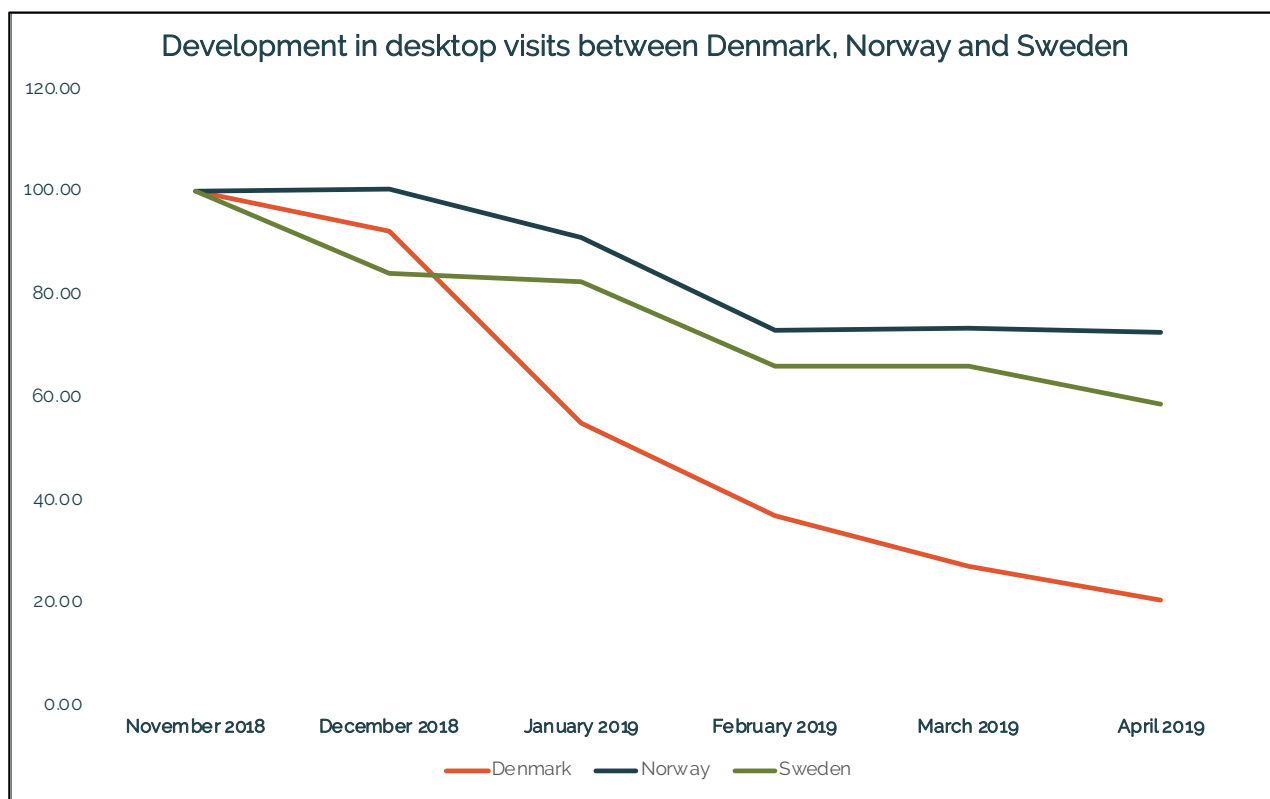


Chart 3) Development in the number of visitors to illegal websites covered by blocking wave 11, 12 and 13 in Denmark, Sweden and Norway.

As RA manage blocking an increasingly large part of the illegal services used by the Danes, there is a natural need for us to focus our resources more on blocking the illegal sites' mirror sites. Mirror sites are new websites that provide access to blocked services content.

A typical scenario we experience is that an illegal service will switch from a site that has been blocked to a new website with a similar name. An example, illustrated in Chart 4, is the service Subsmovies that was convicted in 2017 with the website address (url) at the time, subsmovies.com.

In the run-up to the blocking of the .com domain, graph 4 illustrates how a mirror site under an .nl domain is created, which rose in popularity after the blocking of the original domain. The same pattern repeated when the .nl mirror site was also blocked. The example shows why it is crucial that we quickly detect and block the mirror sites for an optimal blocking effect.

³ It is currently only possible to compare traffic from stationary units across Denmark, Norway and Sweden.

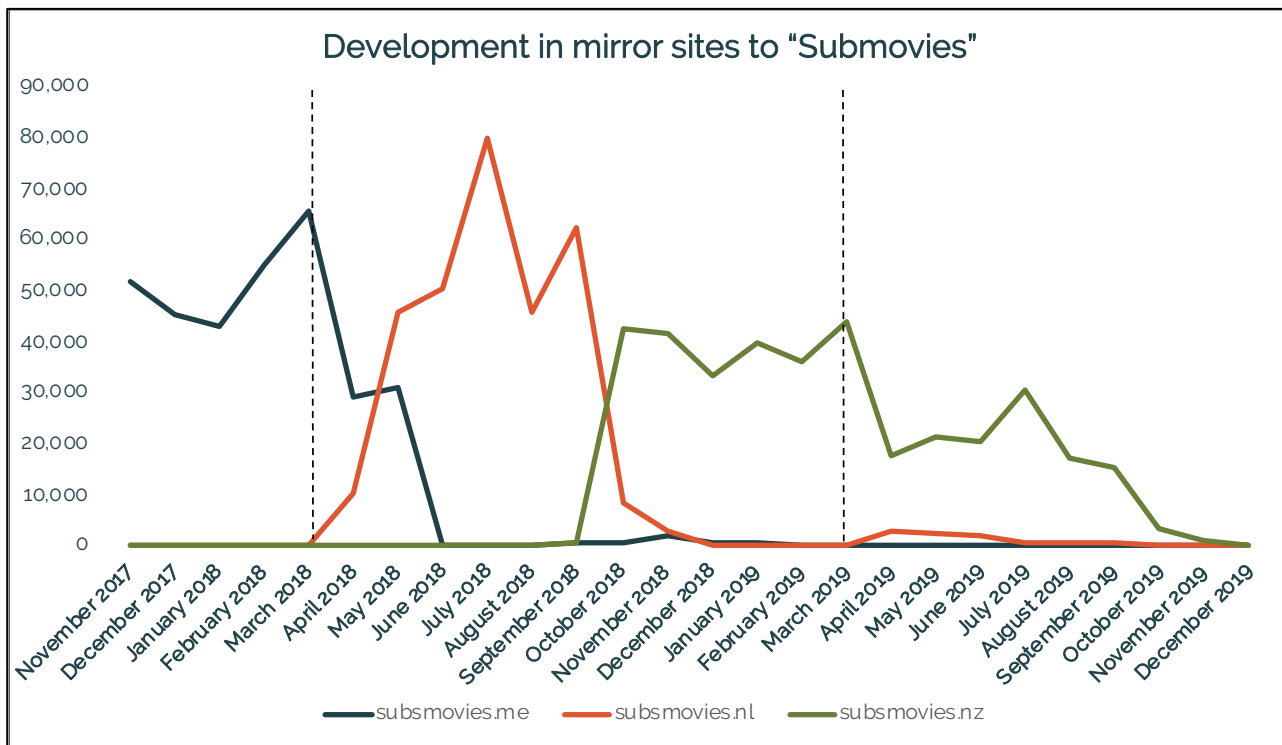


Chart 4) Development in traffic to three mirror sites for the service Submovies. The dotted line indicates a mirror site blocking.

In the latter half of 2019, RA systematized the handling of mirror site, which resulted in the blockings of 84 mirror sites, which in 2017 we were given the opportunity to include in the court's blockings orders. Going forward, RA report the most popular mirror sites to the telecom companies on a monthly basis, so that the blockings now have optimal effect.

Developments in 2019

As our key figures in the previous section reflect, in 2019, RA are successful in a wide range of cases - both civil and criminal, and we have reached the consumers through our campaign efforts and other communication projects. The success has largely been achieved on the basis of a constant development and further development of our main focus and competencies in campaigns and projects, legal tools, collaborations and press, external visibility and expansion of memberships and the RA Secretariat. All of these developments in the various issues in 2019 are discussed below.

Campaigns and projects

RA are involved in a number of campaigns and projects, all of which support our work to combat rights infringements on the Internet through awareness and motivation. A basic concept behind the activities is to move user behaviour by first telling users when a particular activity is illegal and partly by showing them where the legal services are, and finally motivating the users to use legal content. 2019 offered both operation and development of campaigns launched in previous years, but it also offered involvement in new projects.

Share With Care

The Share With Care collaboration (SWC) on blocking and user information is a collaboration between the Ministry of Culture, RA and the Telecommunications Industry Association in Denmark (TI). SWC was launched in 2013 under the auspices of the Ministry of Culture's 'copyright package' and remains a cornerstone of RA's work.

The SWC collaboration with TI is based on a Code of Conduct (CoC), which means that TI's members, the individual internet service providers (ISPs), block Danes' access to services that have been deemed illegal by, among other things, implementing a so-called 'blocking sign' (see picture 3) that the user encounters when attempting to access the blocked page. The purpose of the CoC is thus to simplify and streamline the implementation of court rulings on blockings. The current CoC agreement is from 2016, but it is expected to be updated in 2020.

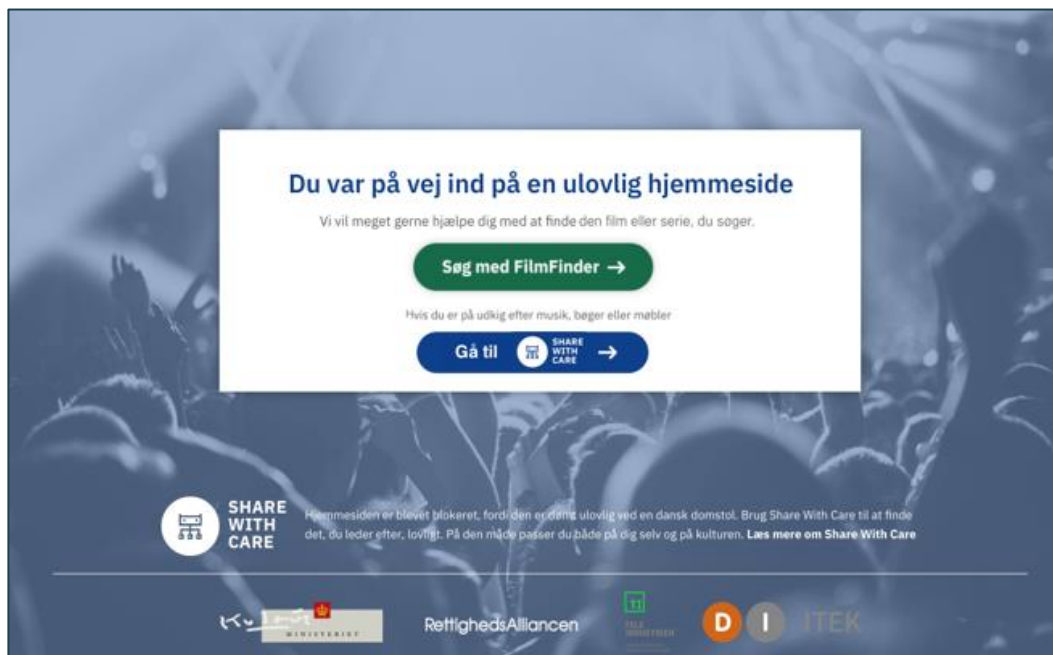


Image 3) Screenshot of the blocking sign that the user encounters on an illegal website after blocking.

In 2019, RA also entered into a similar CoC agreement on blockings with the FDA, which also represents a number of ISPs, which is a step that has increased the CoC coverage by 40-50,000 Internet users. Likewise, the fourth largest mobile service provider, 3, has become a member of TI and is thus covered by CoC, which means that the CoC-agreement with respectively TI and the FDA covers more than 95 per cent of Danish Internet users. However, this does not solve the challenge of users of VPN connections and alternative DNS providers, which in the long run can become an increasing problem, cf. the previous section.

In addition to the SWC blocking collaboration, the SWC campaign itself aims to motivate and guide users from the illegal services to the legal through behavioural design and information. The campaign has been, and continues to be, crucial to RA's efforts to limit the use and provision of illegal services. The SWC2 campaign increased the value of the effort for users by introducing the search engine FilmFinder (see picture 4). This interaction between blockings and user information has been successful with over 90,000 users of FilmFinder so far.

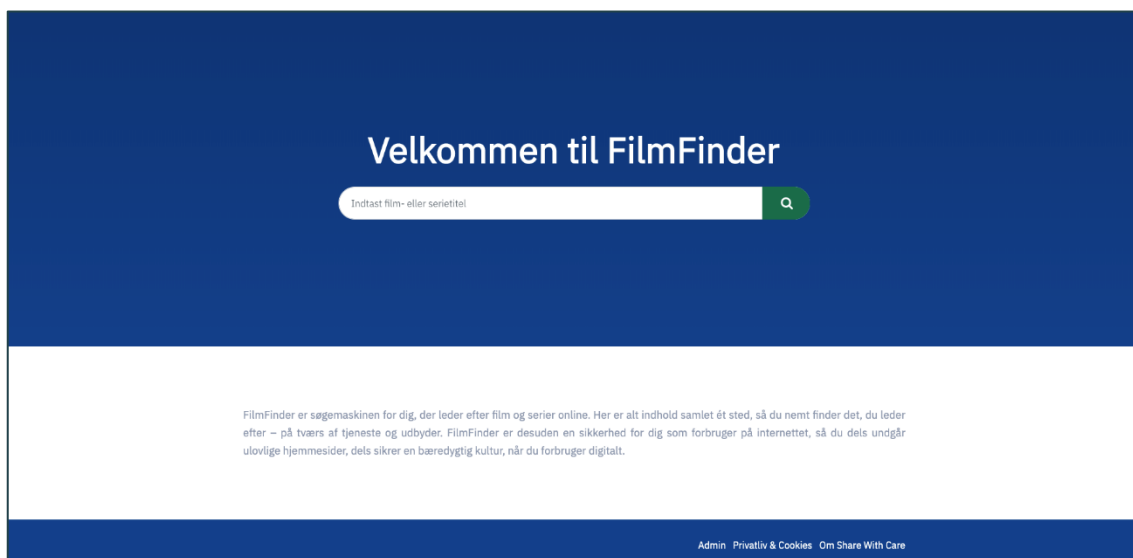


Image 4) Screenshot of the homepage of www.FilmFinder.dk.

The continued fight against illegal downloads and streaming through the SWC campaign was secured in 2019, with the Ministry of Culture awarded DKK 3 million for the continuation and development of SWC in the form of SWC3. The financing is under the condition that a similar amount is included from other parties.

SWC3 was launched at the end of 2019 due to delays caused by the Danish general elections, and in 2020 it will focus on the continued operation of the SWC website, where also TI contributes, as well as on the following two main projects:

i. Further development of FilmFinder

Through FilmFinder, the user can search for a specific movie or series and be presented with the legal services that offer the desired content - across platforms and services. SWC3 will work with the continued development and upgrading of the search engine with new search and sorting features, improving the quality of the presentation of results and the involvement of new providers.

Further development is necessary in order to retain the users, who for the most part come from blocked illegal sites, and to convincingly provide relevant legal services.

ii. Further development of the NudgeIP learning program

SWC3 will develop a learning portal for children/young people in primary school, based on the experience of the EUIPO-funded NudgeIP teaching course, which was

completed in 2019. NudgeIP was positively received at the Danish primary schools and the course was covered extensively in Danish media, with both news articles and radio and television features in which RA participated.

NudgeIP is now available as a learning portal at all primary schools and has a large number of users (more than 10,000 users in teachers alone), who have experienced the course as a very welcoming and engaging way to communicate to both children and teenagers the knowledge about the Internet, safe behaviour and illegal services.

The SWC3 project was developed in the fall of 2019 under the working title 'NudgeIP2' and must be based on equal co-financing from respectively Ministry of Culture and other partners. The NudgeIP2 learning program will be part of the publisher Alinea's learning portals aimed at primary schools, and will be freely available to all primary schools. RA has already succeeded in establishing cooperation with UBVA (Udvalget for Beskyttelse af Videnskabeligt Arbejde) on co-financing, which will enable the project to be launched during the spring of 2020.

The project is currently being planned to aim at a younger target group than NudgeIP, which had primary school grades 6-9 (12 to 16-year-olds) as its target audience. NudgeIP2 will specifically address the intermediate stage, grades 4-6 (9 to 12-year-olds), and will be organized with the help of musicians, filmmakers and writers, as well as an increased focus on pictures and music beyond text. The most important element remains to provide the target audience with tools to differentiate between safe and unsafe behaviour as well as legal and illegal sites on

Os Der Elsker Viden

Os Der Elsker Viden (We Who Loves Knowledge) is a 2017 initiative that was launched in a collaboration between RA and a number of actors aimed at increasing the knowledge and understanding of the rules for copying and sharing textbooks, in addition to facilitating students, educational institutions, platforms, dealers and stakeholders take a bigger responsibility. After two years of Os Der Elsker Viden (ODEV) and the proven positive effects the efforts have had, it was decided in early 2019 to extend the campaign by another two years.

The success of ODEV is rooted in the combination of different approaches to bring illegal sharing to an end. One of the primary approaches is dialogue with and information for the students on a number of the, primarily digital, platforms where the illegal sharing takes place. An approach that has proven effective, where we experience a much greater awareness of rules as well as greater acceptance and

responsibility – e.g. by having students sharing ODEV messages in Facebook groups on their own initiative.

A milestone in the work to bring illegal sharing of textbooks to an end was when SØIK's IP Task Force in 2019 succeeded in getting two people convicted of systematically selling digital textbooks illegally through online platforms. The two cases have thoroughly raised awareness and understanding of the seriousness of this type of copyright infringements, and the cases further show that the police have become much more aware of this type of crime. An awareness that has had a great effect on the students, who have also been able to read about the cases in major Danish media.

But there is still a need for active, determined action against the illegal sharing of digital textbooks. A survey conducted by Epinion in June 2019⁴ established that the problem is still widespread and that more than half of the students who have used a digital textbook have obtained it illegally. A serious problem that underlines the importance of ODEV's continued work.

It is crucial that educational institutions engage in the campaign and clearly signal that it is illegal to share digital textbooks. This will need great focus going forward, now that ODEV has shown its good effects.

Design flyer

After having intensified the efforts in 2018 in the field of design, RA in 2019 succeeded in gathering all members from the design industry on a common message on a common platform. The "Why Originals" flyer has been created based on the members' own experiences with how consumers have resorted to buying copy products - often unaware of the consequences. Therefore, the flyer aims to inform and guide users to choose original design over illegal copies while at the same time equipping dealers and others with better answers to relevant questions about the difference between originals and copies and the consequences of buying the copies.

"Why Originals?" was launched in early 2020. The flyer is printed in both Danish and English and has been shared on a number of different online platforms and in pamphlets, which has enabled members to share it at various design fairs in Denmark and the rest of Europe.

⁴ Danske Forlag, *Studerendes anskaffelse af studiebøger - Epinion Rapport*, 2019

WIPO: Building Respect for IP

WIPO (World Intellectual Property Organisation) is the United Nations' intellectual property organisation, which in 2017 established the Building Respect for IP Database Project (BRIP), which is based on national lists of illegal websites, such as the Danish Cooperation List and its Codex (read more in section on this).

The BRIP project aims to allow authorized contributors, typically authorities from each country, to upload and update the national lists in a common database that will then represent a global, accumulated sum of illegal sites that can be used by authorized users in each country. Although the participants in WIPO are national authorities, in 2017 RA were invited to participate as a Danish representative in BRIP as RA are the driving force behind the Cooperation List and Codex.

The Danish example of active use of the Collaboration List between relevant users in a self-regulatory collaboration is considered by WIPO to be an exemplary example of the effective use of an IWL (Infringing Website List). Therefore, RA have made presentations at BRIP meetings in 2018 and 2019, and at the 2019 meeting, RA were able to inform that the Cooperation List is now ready to be included in the WIPO database in 2020. In 2020, RA will seek to enter into an agreement with as soon as possible with The Ministry of Culture that the RA will be acknowledged as a contributor to the BRIP database, and thus will be able to upload the Danish list as the Codex signatories gain access to the overall database.

The collaboration with WIPO through BRIP has also led RA to assign a task for WIPO in 2019 to assist Lithuanian authorities in developing guidelines and legislation for blockings of illegal websites with reference to the Danish CoC-agreement. RA contributed a report and held a seminar with the Lithuanian authorities, funded by WIPO.

Legal tools

In addition to the many communicative efforts and initiatives, RA also have a wide range of legal tools that will be reviewed in the following. In 2019, the development of the legal tools resulted in a number of rulings in principle cases. These verdicts were the first of their kind in Denmark, e.g. in the illegal streaming of live sports and copying of news articles.

Blocking cases

During 2019, RA conducted three ordinary blocking waves that included 44 illegal services as well as 84 mirror sites for convicted services. Similarly, RA managed to get a further 13 services blocked. These were covered by four principle cases discussed below. In total, 141 illegal websites were blocked in 2019.

However, the effective blocking system that RA have built, developed and refined for several years was also challenged in 2019. The challenge was that the operators of several of the services that the RA went to the courts to get sentenced illegally and blocked by the Danish telecom companies opposed to the blockings and hired Danish lawyers to defend their interests. Normally, cases are conducted with the telecom companies as counterparty, since the people behind illegal services are usually anonymous. RA consider the operators' involvement in the cases to be a positive development, as the blocking system is more legitimized when thoroughly tested in court, as in the case with live sports service, Rojadirecta.

Live sports on Rojadirecta i.a.

In collaboration with the Spanish football league, LaLiga, RA blocked 10 services that made live streams of the league's football matches and other live events available without the necessary agreements with the rights holders. One of the services intervened in the case with a Danish lawyer, but the service was nonetheless convicted illegal on a par with the other services in the case. When the lawsuit started, the service had 19,000 Danish visitors in just one month. The case was the first in Denmark to block services for illegal streaming of live sports. However, the intervening service has appealed the decision of the district court, which will therefore be considered in the high court in the summer of 2020.

The World News

In 2019, RA in collaboration with Danish Media achieved the blocking of www.theworldnews.net, which copied articles and images from Danish news media to a massive extent. Shortly after the blocking, the operators behind The World News website created www.twnews.dk with the same Danish content as site first blocked – a so-called mirror site. RA quickly closed the new domain by initiating an identification procedure at DK-Hostmaster, which handles .dk top-level domains. As the registrant of the new .dk domain failed to provide identification, the domain was deleted. The blocking of a service for copying articles and images from news media was the first of its kind in Denmark.

Scientific content on Sci-Hub and Library Genesis

In 2019, RA, in collaboration with Dutch publisher Elsevier, blocked the file-hosting services Sci-Hub and Library Genesis, which offer a great number of e-books and scientific articles on the Internet. The blockings of the two services for illegal copying of scientific content was, like the other two cases of principle, the first of its kind in Denmark.

Music download via 'stream ripping' services.

In 2019, RA blocked several so-called 'stream ripping' services. These are services that download content from e.g. YouTube and convert it into files that can be saved and used offline. The operator behind one of the reported stream ripping services objected to the blocking, which is why a separate case will be filed in 2020. The case is also the first of its kind in Denmark.

IP Taskforce and criminal cases

2019 is the year in which we have begun to see the effect of the IP Task Force in SØIK. During the year, RA reported four cases to the Task Force, and in all cases the verdicts fell in favour of the rights holders. The verdicts are elaborated below. RA has filed a further 23 criminal complaints with SØIK in 2019, which includes six literature cases, ten film/series cases, one news media case and six design cases. In addition, one design case has been filed with Europol via SØIK, as it deals with infringements of Danish rights holders in six different countries.

Among the reported cases is the complaint of two Facebook pages that functioned as 'movie clubs' where Danish films and series were regularly screened illegally. On the pages, users voted on which films should screen at a specified time, and one of the streamed films had a total of 75,000 views. RA caused Facebook to shut down the pages, as there were not the necessary permissions from the rights holders. In addition, RA have reported a Danish IPTV service, which also operates without permission from the rights holders by offering popular Danish TV channels as well as a wide range of films and series. Services like this are a growing problem in Denmark, and therefore RA is preparing a large number of police reports of Danish IPTV services as well as of Danes selling illegal IPTV services.

Besides the reports above from 2019, there are a further ten pending criminal cases from 2018 that SØIK continues to investigate, or where a hearing is pending.

Verdict in case of movie upload

In August, a long-awaited verdict was delivered in a 2014 case of illegal uploading of movies to a larger file-sharing network. Defendants were sentenced to 60 days in prison, as it was emphasized that defendants themselves had produced copies of some of the movies before they had premiered in cinemas and were released on DVD, after which he made them available on the Internet.

Verdict in case of sale of study books

In October and November, a verdict was delivered at the district court in Frederiksberg and in Aalborg, where two men received suspended sentences and confiscations of 20 days and DKK 27,000 as well as 30 days and DKK 17,000, respectively.

Verdict in case of sale of replica furniture

In November, the harshest sentence to date was imposed by the Aarhus District Court of illegal sale of replica furniture. The Danish owner and CEO of the web shop Nlini.com was given a suspended sentence of 1 year and 3 months as well as confiscation of proceeds of DKK 500,000 for extensive sale of replicas of Danish design classics. The verdict was made suspended because the case had been going on for almost 4 years, as SØIK had not yet established its IP Task Force during the investigation. Thus, the importance of the Task Force was emphasized once again.

Application for action

On behalf of three design members, RA sent applications for action to the customs departments both in Denmark and in the EU during 2019. In addition, during the year we responded to two customs stops where illegal replicas have been confiscated under the measures of the Danish tax authorities, SKAT.

In addition, SKAT has held two customs seminars in Copenhagen, where RA's design members were given the opportunity to participate and present some of their products and special features to the customs, to make it easier to spot illegal replicas.

EU cases

At EU level, there has also been activity in the field of copyright in 2019. RA have been following the Tom Cabinet and YouTube cases closely, as both will have an impact on RA's work.

Case C-263/18 (Tom Kabinet)

In December 2019, the European Court of Justice issued a favourable ruling for rights holders in the long-awaited e-book distribution case. According to the verdict, distribution of e-books on the Internet should be regarded as "communication to the public", which means that a file of the e-book cannot be forwarded to third parties without the permission of the rights holders of the e-book.

Case C-682/18 (YouTube) and (Uploaded)

The EU Supreme Court heard the parties' oral procedure in the high-profile case between rights holders on one side and YouTube as well as a cyberlocker on the other. The case concerns the interpretation of the concept of "communication to the public", which is in practice a matter of whether the platforms must have the consent of the rights holders to distribute content products. The concept of interpretation is of great importance for RA's work, as it is a key element in the assessment of whether we are dealing with illegal services, e.g. in our blocking cases. The case is also of great importance for RA's forthcoming cyberlocker-blocking case, which is expected brought to trial in 2020. Danish Advocate General Henrik Øe will issue his opinion on the 26th of March 2020.

Monitoring

RA are monitoring numerous online platforms where illegal content is shared. Especially on Facebook and various online marketplaces, which in themselves are often legal, there are illegal sales of textbooks and design furniture, which is why RA monitor especially under the auspices of Os Der Elsker Viden (ODEV) and our efforts in the field of design.

In regard to ODEV, RA closely monitor illegal sale and sharing of textbooks. By the end of 2019, we had dealt with 1,823 specific infringements of the rights of our members, covering a total of 4,062 different works, and the monitoring had several positive results. In addition to removing specific illegal files, it has also enabled a direct dialogue with users who share illegally.

On Facebook, we see a growing awareness and acceptance of the rules among the students. A behaviour we have not seen before, which is a positive sign that users are becoming more aware that norms and regulations also apply to digital products. Monitoring is also central to our work in getting educational institutions to take responsibility and actively engage in dialogue with students, because through the monitoring we have the opportunity to collect data that enable to specify and

actualize the problems for the individual institutions. This, combined with the two aforementioned police cases on the illegal sale of textbooks, plays a key role for both direct enforcement and information, as well as for the opportunities to get the educational institutions to engage in the work against the illegal market.

In the field of design, RA have monitored various platforms in 2019, and we have seen an increase in the distribution of illegal design copies, including in particular classic design furniture, lighting and other handicrafts, compared to 2018. Offering and selling of these copies takes place to a great extent via e.g. closed Facebook groups, Den Blå Avis, Gul&Gratis and various other online services, which are most often registered abroad.

Since the groups on Facebook are "dedicated" to selling copies, users are aware that they are illegal copies, and so it has no effect contacting users, let alone the administrators, unlike our experiences with ODEV. We are therefore working on getting these groups removed, which happened in a single case, and in addition, Facebook is contacted and ask to remove posts where illegal copies are offered for sale, and RA make sure to report the organized sales to SØIK.

It is our opinion that these private groups are being used for illegal distribution because of the minimal risk of being detected. On two private Facebook groups alone, one of which has now been removed, we have registered 396 sales of illegal copies alone, of which 297 have been removed.

User effort

In 2019, it was decided by RA to increase the focus on individuals who commit systematic infringements of copyright law. The so-called user effort is part of the initiatives of the Growth Team for the Creative Business Growth Plan⁵ to promote good conditions for copyright enforcement, which was presented in May 2019. The RA fundamentally believe that individuals should be held accountable for systematic infringements and that this presupposes a context where it actually has a consequence of breaking the law. Therefore, in the past year, RA have collected evidence to use approx. 25 criminal cases against Danish individuals who have shared a significant number of Danish movies and series on dedicated, illegal file sharing platforms. The first 5 cases have been notified to SØIK.

⁵ Ministry of Industry, Business and Financial Affairs, *Vækstplan for de kreative erhverv: Et kreativt Danmark i front*, 2019: <https://em.dk/media/13204/vaekstplan-kreative-erhverv-accessible.pdf>

Political initiatives and collaborations

Over the last 10 years, RA has been instrumental in establishing necessary collaborations across industries and between private and public actors as well as across industries; collaborations that have proved indispensable in combating the illegal market on the Internet. The former government's Growth Plan, a change of government and the resumption of the Dialogue Forum have characterized 2019. These initiatives and collaborations in the past year will be discussed in the following.

The political climate

Following the change of government in the summer of 2019, there has been a continued positive political awareness of the importance of copyright. Today, there is broad political agreements on the need to strengthen knowledge of rights among children and young people and the need to improve enforcement - also in relation to systematic users of illegal services, as described in the previous section on RA's user efforts.

The change of government gave RA the opportunity to identify key challenges and priorities in meetings with relevant spokesmen on cultural and legal affairs and for putting copyright on the agenda.

The implementation of the new Copyright Directive, not least Article 17, has also been the basis for on-going dialogue, primarily with the authorities, since the Copyright Directive had not received much political attention until then. Among other things, RA, in collaboration with Dansk Industry, held a well-attended seminar on platform responsibility and implementation of the directive. The Ministry of Culture attended.

The RA has further emphasized the need for the dedicated resource allocation to the IP Task Force in SØIK to be maintained with at least the current number of investigators and prosecutors. After being made permanent in 2018, the Task Force has fully demonstrated its justification through a number of cases and convictions, but it is however essential that the resources are adequate. This political emphasis is necessary as there are still relatively long case-processing times for notifications to the Task Force. Therefore, in 2019, in connection with an evaluation of the unit, RA arranged for members of the Parliament's Legal and Cultural Affairs Committees to visit the unit at the end of January 2020.

The government's growth plan

Regarding to RA's political efforts, in 2019, a special focus was on the previous government's *Plan for Growth in the creative industries* and the follow-up *Growth Initiatives* from May 2019. RA's dialogue with authorities and politicians has therefore aimed to continue the Growth Plan initiatives after the change of government, and to have them specified and implemented.

RA's political work has then focused on two of the initiatives in particular: enforcement and efficiency improvement of the blocking process. The turnover of the Growth Team's recommendations from the Growth Plan to the more concrete Growth Initiatives meant, as expected, that RA's primary priorities have been maintained with the two key initiatives:

Enforcement, i.e. prosecution of individuals who systematically violate copyright law by SØIK's IP Task Force, accompanied by an investigation into the legal situation in other countries. As mentioned in the section on user efforts, RA have identified a number of active individuals who have made extensive use of illegal services and have provided data and reports to SØIK. The effort is an issue where there is also political coverage for further aimed and well-founded action on systematic infringements.

Efficiency improvement, i.e. analysis of the possibilities of streamlining civil access of blocking websites with illegal content using so-called 'trusted notifiers'. Blockings are a crucial tool for limiting illegal services, and with an increasing number of illegal services there is a significant need to increase both the extent and number of blockings as well as the speed of blockings. Therefore, streamlining the blocking process is extremely urgent. RA have set up a two-stage process for politicians, where both steps require adaptation of the rules:

- i. A simplified process using trusted notifiers, which may be e.g. RA, to reduce litigation time and costs, combined with the appointment of one court to deal with IPR crime on the Internet. Here, the use of credible notifiers can significantly reduce the processing time, as evidence provided by such notifiers should in principle be considered adequate. This step lies within the Growth Plan's initiatives and has also received political support at spokesman-level, but the Ministry of Justice has not yet implemented it.
- ii. Administrative authority blockings, i.e. that a given authority, such as the IP Task Force in SØIK, may require ISPs to block without a prior court process. This step has a longer time frame, since it has met opposition from the Ministry of Justice based on an assumption of possible conflict with the

provisions of the Constitution on freedom of speech. On the other hand, it is supported by a number of political spokesmen as well as by a number of boards with the same needs. Therefore, in 2019, RA had close dialogue with i.a. The Gaming Authority, the Safety Agency and the Danish Medicines Agency and others to emphasize the need. This will continue in 2020.

Article 17

RA are working intensively on how the implementation of Article 17 of the EU Copyright Directive must be implemented in Danish law, which must be in 2021 at the latest. Therefore, there was great activity on this topic in 2019, as there will also be in 2020. It is primarily RA's practical experience with enforcement on online platforms that is part of the work, and RA has therefore been behind several seminars and conferences in 2019 that focuses on this particular aspect of the implementation. The work takes place in all EU member states, which is why RA draw on experiences and gets inspiration from our networks around Europe, as we also share our knowledge gained from our experiences and collaborations with the platforms.

Trusted Notifier on Facebook

In December 2019, after a lengthy dialogue, RA entered into an agreement with Facebook to gain access to the platform's enforcement tool, the so-called 'Digital Rights Manager' system. The tool allows RA to remove illegal content on the platform outside Facebook's manual notification form. The notification form was previously RA's only tool, but it was both challenging, time-consuming and resource-demanding, which is why reported posts such as the illegal sale of copy furniture could have long since been removed after a sale.

With access to the Rights Manager system, RA will be able to act faster and remove copyrighted content on the platform more effectively.

Dialogue forum and Codex

An even more important component of combating rights infringements on the Internet is the blockings of direct and indirect cash flows for illegal activities, also called 'follow-the-money'. During the Ministry of Culture's Dialogue Forum in 2017, RA took the initiative to establish an agreement with advertisers and payment services to block ads and payments to convicted illegal sites. The collaboration resulted in an 'Adkodex' as well as a 'Paykodex' proposal, whereby the ones signing commit to cut off transactions to pages that appear on a list of illegal pages.

RA, together with the Adkodex participants, saw an obvious need to expand the group of participants to other relevant parties and to formulate a unified and simplified 'Codex'.

This effort to expand the group of signatories and rephrase the Codex was significantly delayed, as the handling of the supporting element in the form of the Collaboration List containing Illegal sites was deemed to be in conflict with the Data Protection Act cf. a decision from The Danish Data Protection Agency in May 2018. By the end of 2019, the work on adopting a new, simplified and general Codex and restarting the Dialogue Forum was finished. The challenge with the Data Protection Act was solved in collaboration between the Ministry of Culture and RA, since RA now provide input to the Collaboration List, which is then distributed by the Ministry of Culture, as a public authority, to the signers to Codex. The new Codex was formally approved at the Dialogue Forum in December 2019 and thus the list will be reactivated in February 2020.

In 2020, RA will work with the Ministry of Culture to bring all the responsibility for the list back to RA in connection with the implementation of the new copyright directive and the consequent revision of the Danish Act on Copyright. At the same time, the RA will explore the possibility of extending the criteria for inclusion on the list (cf. section on WIPO, p. 17).

PR and visibility

In 2019, RA increased our focus on the organisation's external visibility – both in the media and towards our members. RA want to become even more recognized and acknowledged as specialists in dealing with the illegal market, and therefore it is important that we convey our unique approach to and combination of copyright, digital enforcement, behavioural design and political work. The following is a review of the measures taken by RA in 2019 for an increased visibility.

PR

During 2019, RA developed on the overall, external communication and identity. In line with this, RA have developed a PR strategy that provides a better overview, a clearer process, as well as better control of where, when and in what contexts RA are mentioned. The strategy is used partly to secure RA's identity and brand, and partly for better managing the stories created about RA and RA's work, as well as being more proactive in spreading the good stories ourselves. The strategy is thus part of a better

dissemination of RA's identity – both in relation to our own communication and to external communication about us.

The proactive effort to increase the visibility of RA's work is achieved through contact with the media via press releases and news on our website, and through collaboration with external partners on PR activities. In addition, we are present on RA's social platforms such as Twitter, LinkedIn as well as Europol's platform where all relevant news is shared in English. In addition, a newsletter will be launched in 2020 to increase and improve the orientation to our members, but also other relevant stakeholders who sign up.

Events

As part of the visibility of RA and RA's work, RA often participate in a number of events and debate events, both as conference speaker and debater and as co-organizer. During 2019, RA participated in the following:

- **HADOPI symposium, 7 February**

RA were invited to give a presentation at the seminar hosted by HADOPI, the French regulatory authority, on 'International strategies to tackle online piracy of cultural and sports content'.

- **SPOT festival, 2-4 May**

RA gave a presentation and participated in a panel discussion on the development 10 years after The Pirate Bay with, among others, MusicMatters and the former chairman of The Pirate Party.

- **"Folkemødet" Bornholm, 15 June**

RA participated in UBVA's panel discussion under the headline 'The Law and the Youth on the Internet. Are we doing enough?'

- **"Rødding mødet", 13-14 August**

RA was invited to the annual cultural meeting, where the Minister of Culture invites cultural stakeholders and opinion makers to an open debate at Rødding Højskole (Folk high school).

- **"Kulturmødet Mors", 24 August**

RA gave a presentation and participated in the panel discussion '10 years after The Pirate Bay'. MusicMatters and human behaviour expert Mikkel Holm.

- **The Internet Day, 5 September**

RA participated with the Danish Business Authority in planning the Danish IGF theme on the Internet Day and gave a presentation as well as participated in a well-attended panel discussion with, among others, the Media Council on 'How to strengthen young people in their journey on the Internet'.

- **Seminar on Platform Responsibility and Implementation of the New Copyright Directive, 23 September**

Together with Confederation of Danish Industry, RA hosted a well-attended seminar with presentations from RA and from i.a. the Danish Ministry of Culture, Facebook, Google and KODA.

- **NAPO meeting, 23 October**

RA hosted a very well-attended NAPO-meeting (Nordic Rights Organisations), hosted by KODA, where the development of the illegal market in Denmark was presented. In addition to the status of the individual Nordic countries, the meeting contributed to the presentation and discussion of the implementation of the new Copyright Directive, in particular Article 17, by IFPI and MPA.

Visual identity

Another important step in the direction of increasing our visibility lies in the development of RA's visual identity. The visual appearance, especially in the form of RA's logo and RA's website, has been developed and updated, and will be launched in the spring of 2020. The new visual identity will greatly support RA's profile and increase the impression of a recognizable and professional organisation.

In general, we also find an increasing interest in our work from abroad, and 20 per cent of the visitors to the RA website come from abroad. It is therefore an essential part of the launch of the new website that we get an English version.

Expansions

The RA constantly strive bringing more members together in the fight against the illegal market as well as increasing the resources of the Secretariat as the need of upscaling the organisation's staff increases. The following are the expansions in both the secretariat and in the memberships that we have experienced in the past year.

The secretariat

During 2019, the RA's secretariat has expanded to include two new permanent employees and two new student assistants. One permanent employee focuses on administration and project activities regarding our design members, and the other is dedicated to PR and communication. The expansion of the secretariat is the result of the organisation's development towards a more visible and resourceful organisation, whose competencies are widely wanted. Therefore, the secretariat will also be expanded further in 2020.

Members

In the past year, RA has welcomed four new members that reflect our increased focus on the design and text area: FLOS, Frandsen Group, Le Klint and The Danish Media Association.

FLOS is an Italian lamp manufacturer founded in the 1960s. FLOS' products are today sold all over of the world.

FRANSEN GROUP has been working with Scandinavian lighting aesthetics since 1968. Today, they design, produce and market lighting around the world.

Le Klint is a Danish design brand that also works with lighting. Le Klint was established in 1943 and their products are today sold all over the world.

The Danish Media Association is an industry organisation for the private Danish media and has almost 300 members. The organisation works for the media companies' right to the free word, free independent press and sound outline conditions for the media industry.

Goals for 2020

- What will happen in the coming year

In the coming year, the Danish Rights Alliance will strengthen its activities and strengthen the role as professional experts. We will continue to ensure effective protection of the rights of our members, as well as ensure the terms that govern them. Furthermore, RA will add more resources to its core activities, which is why we will increase our expertise on technical matters as well as in data and communication. In the coming year, RA will do even more of what we already do and what has a proven effect. We must carry out more blocking cases, criminal cases and principle cases, strengthen our role and professional position, increase our monitoring of online platforms such as the Facebook and where we will remove further content due to our newfound access to the platform's enforcement tool. In addition, we must increase our awareness efforts and campaign activities while at the same time having further focus on policy makers and the political influence that can financially secure the important work of RA in the future.

RA's work is still important. The numbers are unambiguous, and there is still a huge illegal market that governs the conditions for the creative industries in Denmark. We must therefore further curb the illegal distribution of content and stay one step ahead of the development for the creative ways to do so. At the same time, we must also insist on informing the Danes about the consequences of using the illegal content, and through judicial enforcement address the individuals who systematically infringe copyright.

Collaborations continue to be the key to achieving these goals, which is why we hope for continued good cooperation with current members, stakeholders and authorities in 2020, and we also hope to be able to bring many more people into the fight against the illegal market.

Copenhagen, February 2020

On behalf of the Board of the Danish Rights Alliance,

CEO Maria Fredenslund