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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Presentation by a representative of Stichting BREIN (Foundation for the Protection of the Rights of the Entertainment Industry of the Netherlands) (agenda item 3c) at the Working Party on Intellectual Property (Copyright) on 4 September 2026

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Stichting BREIN

Established in 1999, appointed Trusted Flagger in 2025

BREIN operates as a civil foundation. Most enforcement actions conducted on a civil law basis in line with the objective in the articles of association: enforcement against copyright infringement.

The Dutch law on representative actions (WAMCA) allows us to enforce via civil law court proceedings in our own name as sole plaintiff for the collective interest of copyright holders.

BREIN addresses all actors in the piracy ecosystem: the source infringers, online intermediaries such as hosting, IaaS, and access providers, domain registrars / registries, search engines, AI platforms, banks.

Legal track record: Over 150 court decisions secured against direct infringers and intermediaries.

Funding: Supported by the film, television, music, publishing and gaming industries primarily via collective management organisations.

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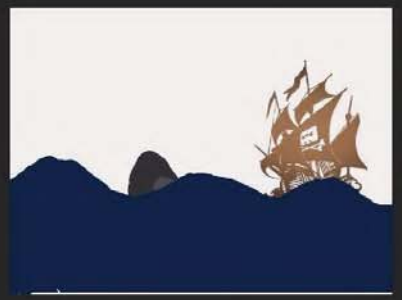
“One for all” Website Blocking Covenant in a Nutshell



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- Agreement between rightsholders and Dutch Internet Access Providers (IAPs) facilitated by e.g. Ministry of Justice, in force since 2021
- Five largest Dutch IAPs are summoned in turn by BREIN in civil summary proceedings
- All other IAPs block access voluntarily after BREIN obtains an inter partes court order against one of the five major IAPs
- The 21 IAPs that fall under the covenant cover >95% of the Dutch consumer IAP market (mobile and broadband)

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"One for all" Covenant in a Nutshell (2)

- Subsidiarity: BREIN must address website and hosting company first; C&D letter suffices, not necessary to initiate legal proceedings;
- Costs: Each party (BREIN/rightsholders and IAPs) bears its own costs
- Publication: Covenant on Parliament website: https://www.tweedekamer.nl/kamerstukken/detail?id=2021D41853&did=2021D41853

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Key elements Blocking orders under Covenant

- Court orders remain valid for as long as website maintains a manifestly infringing character
- Orders extend to (future) proxies and mirror sites of the same platform sharing identical or nearly identical content
- Dynamic blocking BREIN can add new mirrors and proxies at any time without requiring a new court order
- DNS & IP-blocking IP only if no overblocking
- Live Blocking Supported in principle

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Practical solutions

- Status check tool automatically analyses source code and HTTP status codes every day
- Screenshot tool Gathers evidence + enables visual verification prior to updating blocklists
- IP-address check tool no new domains on IP
- Automated SFTP server secure updates to IAPs
- Automated block checking devices installed IAPs block between 30 minutes – number of days
- Cross-Border Collaboration with content protection organisations in member states

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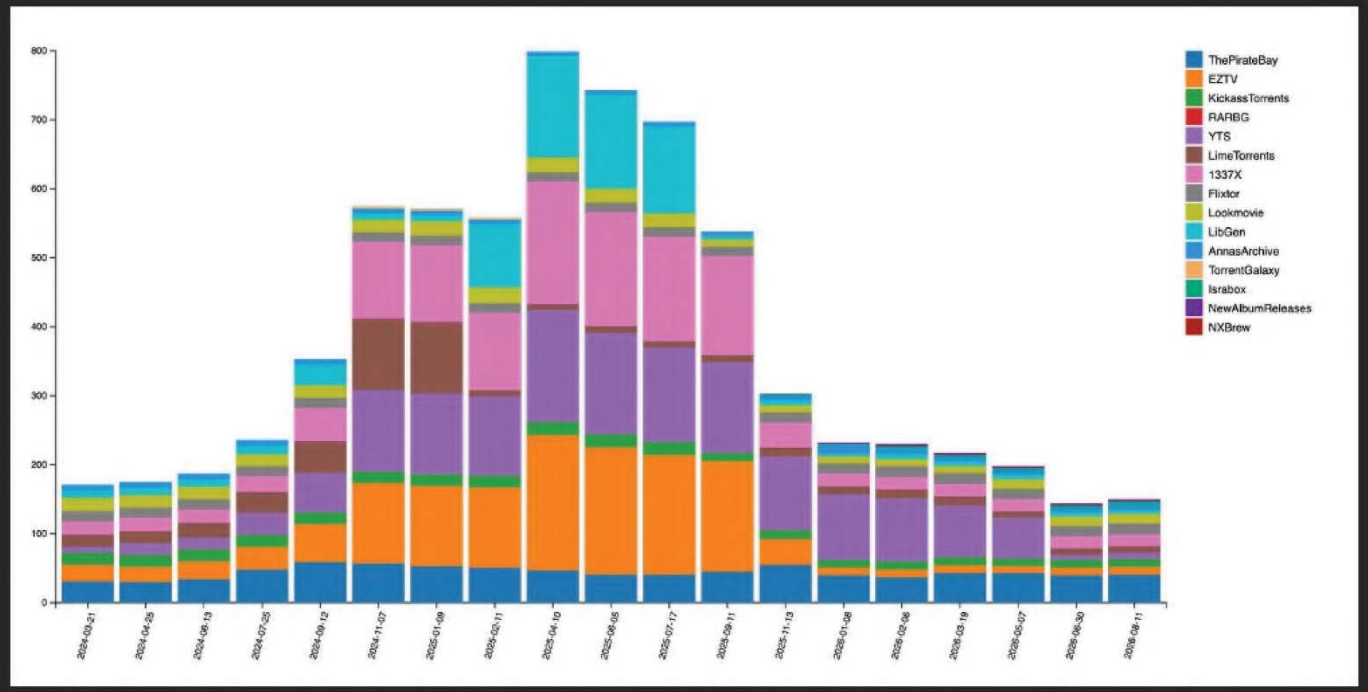

Overblocking Prevention: BREIN automatically monitors blocked sites, proxies, and mirrors daily. If an illegal service goes offline or no longer infringes copyright, BREIN requests IAPs to remove the block. Because proxies and mirrors come and go, this results in fluctuation of the number of blocked sites.

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Trusted Flagger Status under DSA since 2025

Europese Commissie

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- Enables rapid intervention on platforms, while maintaining a broader structural approach against illegal services.
- Special TF Accounts: Direct communication with platforms ensure faster removal & transparency
- Notice Types: Content providing access to or promoting copyrighted works (e.g., IPTV adds)
- Speed: Infringing content is typically removed immediately or within hours (max 2 days)
- System Expansion: High notice accuracy from Trusted Flaggers builds platform trust—extending the TF mechanism to other intermediaries would significantly enhance enforcement efforts

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Enforcement challenges & Proposed Solutions

- Cross-border (live) blocking measures should apply to cross-border services such as VPNs and Alt DNS
- Rapid interventions (max 30 minutes) should apply to all intermediaries which enable access to live content (IAPs, hosting providers, IaaS, registrars, registries)
- Expand Trusted Flagger framework also to other intermediaries hosting providers, registrars, registries, IaaS, Search Engines, AI platforms etc
- Net neutrality Clarify that voluntary blocking of a service subject to a blocking order in in a case between other parties never constitutes a net neutrality violation.
- Mandatory KYBC for all intermediaries which services can be used to access live content This helps going after the source and as extra takedown tool

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