



FRANCE'S APPROACH TO COMBATING INTERNET PIRACY OF COPYRIGHT- PROTECTED CONTENT 法国打击网络盗版的方式



I – THE FRENCH APPROACH TO COMBAT PIRACY: A SET OF COMPLEMENTARY TOOLS TO DEAL WITH THE EVER-CHANGING PIRACY ECOSYSTEM AND A STRONG REGULATOR

法国打击盗版的方式：通过组合拳、严
监管，应对不断变化的盗版产业链



FROM HADOPI TO ARCOM: A MORE POWERFUL AND BETTER ARMED REGULATOR, COMPETENT IN BOTH AUDIOVISUAL AND DIGITAL CONTENT REGULATION

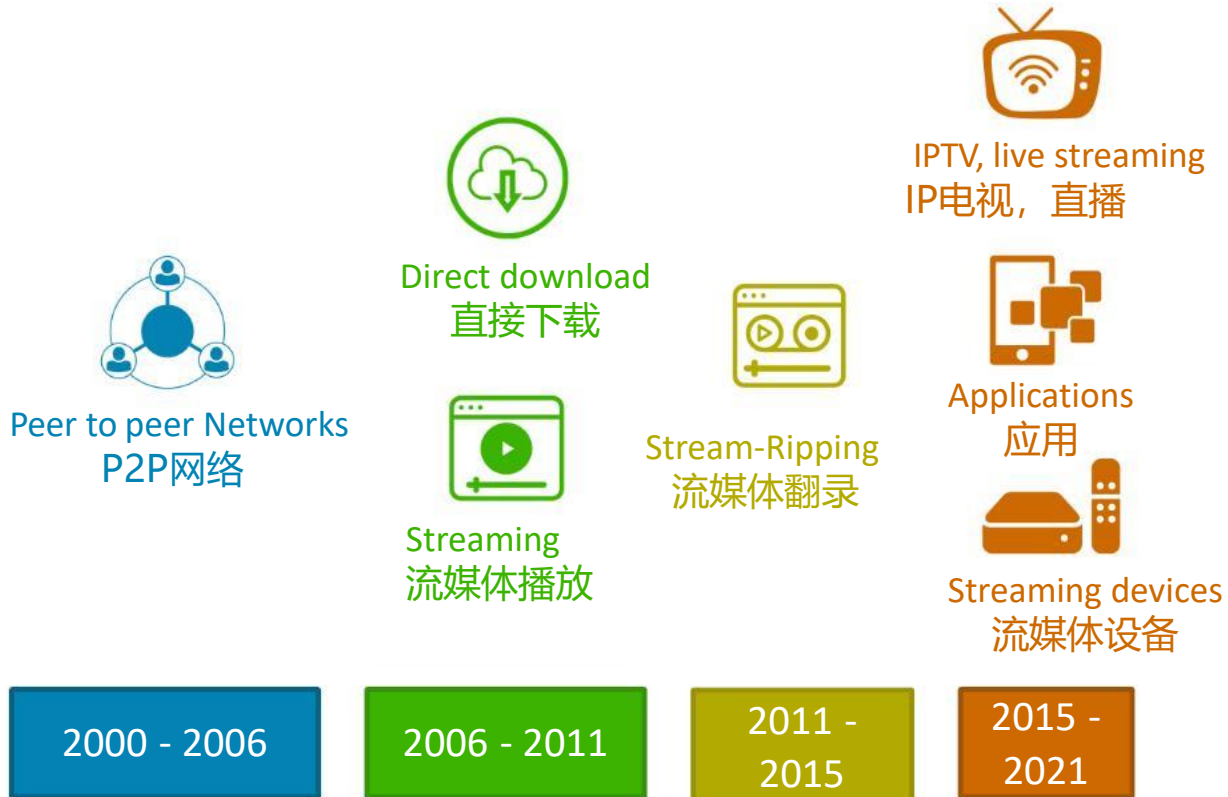
从网络作品传播和版权保护高级管理局 (HADOPI) 到视听和数字通信监管局 (ARCOM) : 职权、资源更为完整的监管机构, 同时进行音视频和数字内容监管





WHY THE REFORM WAS NEEDED: AN EVER-CHANGING ILLICIT OFFER

为何需要改革：非法活动不断变化





THE NUMEROUS ACTORS OF THE PIRACY ECOSYSTEM

盗版生态各类参与者

定位
Positioning

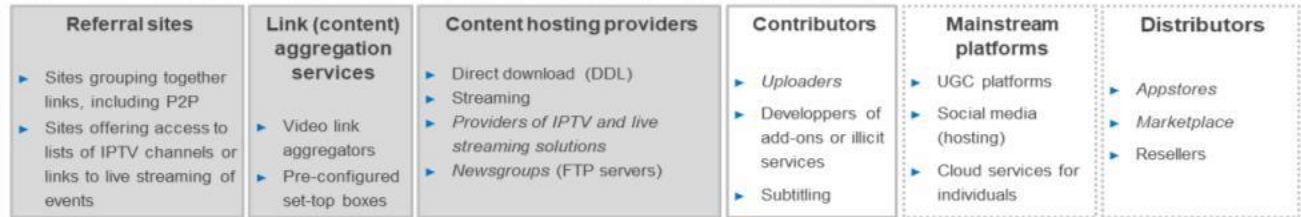
在非法生态中发挥作用的参与者类型

Types of players playing a role in the illegal ecosystem

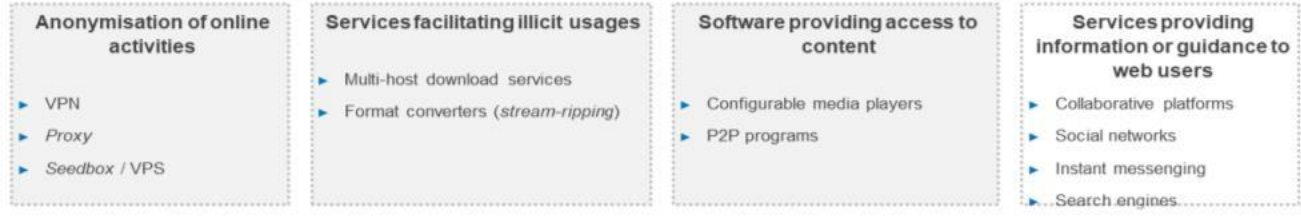
核心参与者使用的服务



核心参与者



网络用户使用的服务



Players hosting or distributing illicit content – activities dedicated to illicit usages

Players that are not essential to the piracy ecosystem or whose activities are not dedicated to it

Players not included in the study



THE NUMEROUS ACTORS OF THE PIRACY ECOSYSTEM

盗版生态各类参与者





THE TOOLBOX TO TACKLE PIRACY

打击盗版的工具箱

Actions targeting end users 针对终端用户的行动	Raising awareness 增强意识
	Promoting legal offer 促进法律服务
	Graduated response 分级响应
	Criminal proceedings 刑事程序
Actions targeting infringing services/content 针对侵权服务/内容的行动	Criminal proceedings 刑事程序
	Blocking measures 拦截措施
	Self-regulation of intermediaries 中间环节自我监管
	Platforms regulation 平台监管



HOW HADOPI CONTRIBUTED TO THE REFORM HADOPI如何推动改革

Studies 研究

- ✓ International survey of anti-piracy tools 对盗版工具开展国际调查
- ✓ Practices and behaviours of Internet users 网络用户的做法和行
- ✓ Legal and illegal ecosystem 合法/非法产业链生态
- ✓ Emerging practices and technical changes 新兴做法和技术变化

Qualitative studies about young users
关于年轻用户的量化研究



Study on strategies to access content
关于内容访问策略的研究



Overviews 概览



Technical analysis of illicit streaming devices
非法流媒体设备的技术分析





THE INTENT OF THE NEW LAW 新法律的目的

A flexible system 灵活体系

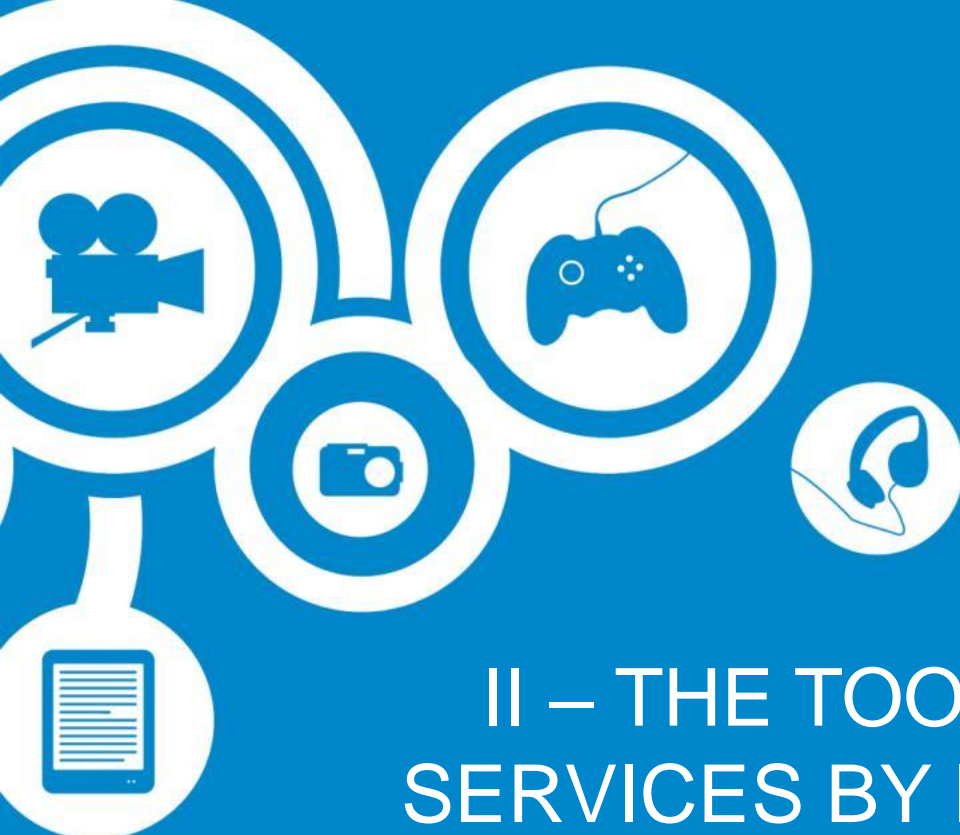
The French system is a comprehensive one, which gives the regulator a central role.
通过建设全面体系，赋予监管机构中心角色。

It is based on a new way of envisaging cooperation between the public authority, the judge, right holders and the general public to build a new regulatory model adapted to digital challenges.
体系设计思路：在监管机构、法院、权利人和公众间建立新型合作方式，构建适应数字化挑战的新型监管模式。

These regulatory tools are designed to be as iterative and resilient as those deployed by illegal services to circumvent the legislation.
监管手段的设计需与时俱进，在快速迭代和韧性方面，不亚于非法服务为躲避法律制裁而使用的手段。

A collective approach 集体方式

The authority is responsible for coordinating a significant reinforcement of the means to fight piracy, in order to federate the legitimate actors and thus surround the illicit services, upstream and downstream of the judge's decisions.
监管机构负责协调、强化打击盗版的各类方法，联合各方围堵非法服务，围绕法院判决前后各环节开展工作。



II – THE TOOLS TO TACKLE ILLICIT SERVICES BY INVOLVING INTERNET

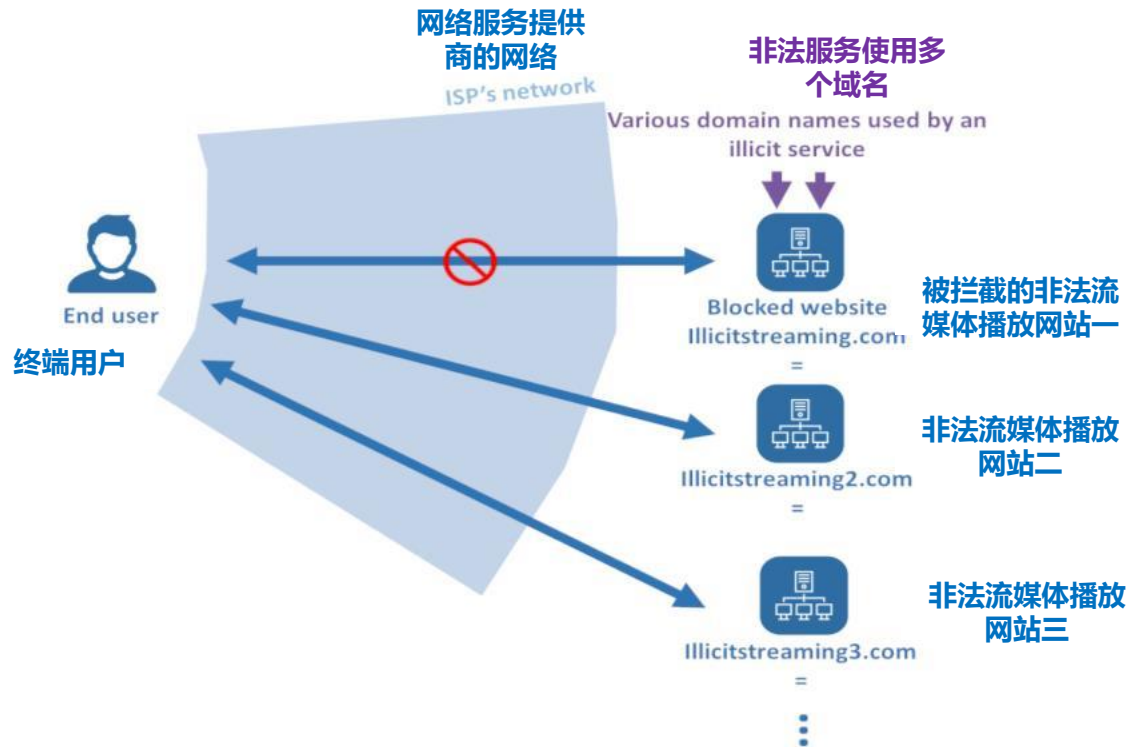
INTERMEDIARIES

联合网络中间环节打击非法服务的手段



THE FIRST GOAL OF THE NEW SCHEME: OVERCOMING THE CIRCUMVENTION OF BLOCKING MEASURES

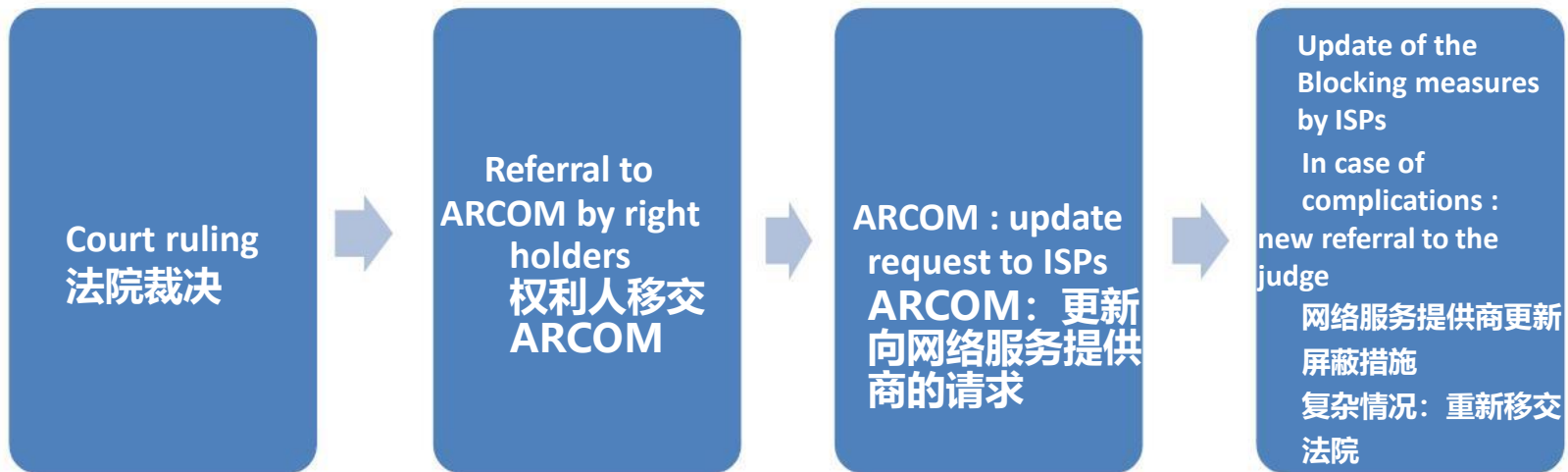
新计划的首个目标：克服对屏蔽的规避





OUTLINE OF THE NEW COOPERATION BETWEEN THE JUDGE AND THE REGULATOR TO UPDATE THE BLOCKING MEASURES

法院与监管机构为更新屏蔽措施开展的新合作之概况



- ❖ ARCOM will draw up standard agreements to streamline the implementation of the updates of blocking measures
ARCOM将制定标准协议，精简屏蔽措施的实施



THE LIST OF ILLICIT SERVICES DRAWN UP BY ARCOM ARCOM拟定的非法服务清单



❖ The goals of the list 清单目的:

- ❖ Provides legal basis for signatories of voluntary agreements + encourage other intermediaries who can contribute to remedying infringements 为自愿协议的签署方提供法律依据，鼓励能够推动侵权补救的其他中介
- ❖ ARCOM will assess these voluntary agreements ARCOM评估自愿协议
- ❖ Listed services can ask to be removed from the list 被列入清单的服务可申请从清单中移除
- ❖ Provide information to the general public 为公众提供信息



REGULATION OF CONTENT-SHARING SERVICE PROVIDERS

对内容共享服务提供者的监管

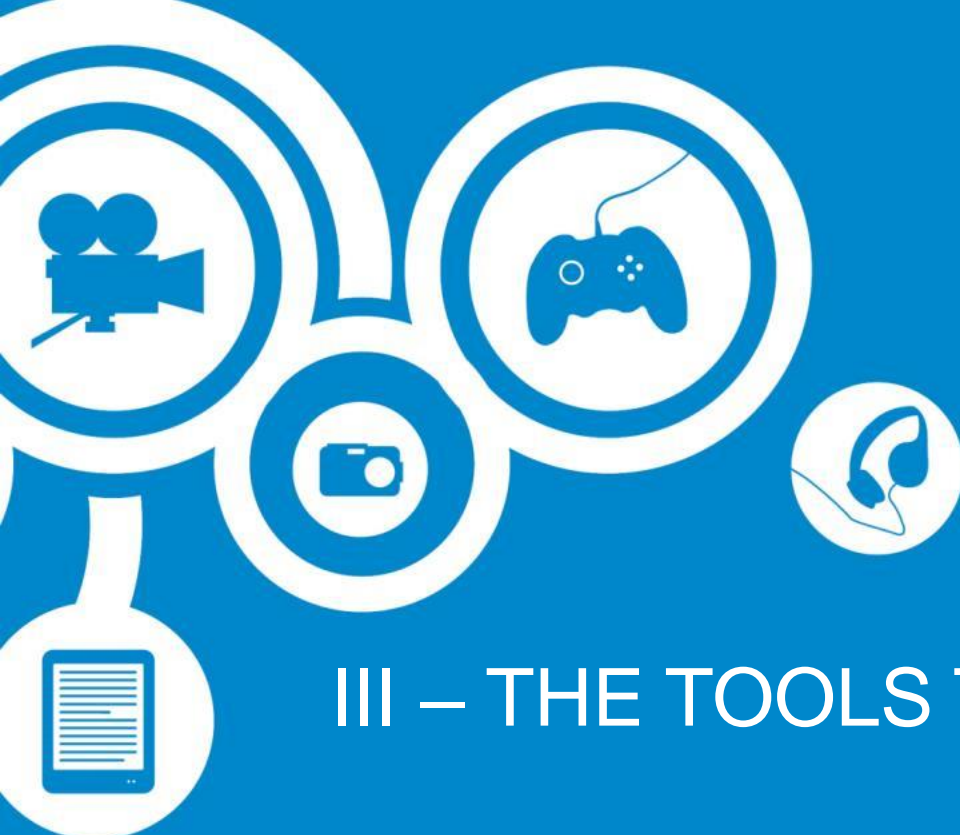
The new approach introduced by Article 17 of the Digital Single Market Directive 《数字化单一市场版权指令》第17条引入的新方式

- Introduction of a specific liability regime for platforms now deemed to carry out an act of communication to the public for content posted by users 针对目前被视为向公众传播用户发布内容的平台，引入具体责任制度
- Obligation for the platforms to obtain authorisation from the right holders or, failing that, to ensure the removal of illicit content 平台有义务获得权利人授权，否则应删除非法内容
- Particularly important role of content recognition tools 内容识别工具的重要作用

ARCOM's new missions
ARCOM的新使命

- Assessment of the level of effectiveness of the measures taken by online content-sharing service providers to ensure the protection of works and protected subject matter 评估网络内容分享服务提供者所采取措施的有效性，确保对作品和客体的保护
- Encourage cooperation between rightholders and providers of online content-sharing services with a view to ensuring the availability on the service of content uploaded by users which does not infringe copyright and related rights 鼓励权利人和网络内容分享服务提供者开展合作，向用户提供未侵犯著作权及其他权利的合规内容
- Settlement of disputes between users and right holders in the event of a dispute over the action taken by the service provider in response to the user's complaint 解决服务提供者针对用户投诉采取行动而产生的、用户和权利人之间的纠纷

23/11/2021



III – THE TOOLS TO MAKE END USERS ACCOUNTABLE 使终端用户承担 责任的手段



LA PROCÉDURE FRANÇAISE DE RÉPONSE GRADUÉE

法国分级响应程序

Legal obligation to secure the internet connection 使网络连接不被用于非法用途的法律义务

- The subscription holder must ensure that his or her Internet access is not used, by himself or herself or by a third party, to download or make available to the public, on the Internet, works protected by copyright or a related right (gross negligence) 网络服务接入用户必须确保其网络不被用户本人或第三方用于下载或向公众提供受著作权或相关权利保护的作品（违反者负重大过失责任）

The 2 goals of the graduated response 分级响应的2个目标

- Raise awareness 增强意识
- Refer the cases of repeat infringers to the prosecutor (penalty incurred: a fine up to a 1,500€) 将反复侵权人相关案件移交公诉机关（最高处1,500欧元罚款）



THE GRADUATED RESPONSE 分级响应



ISP 网络服务提供者

Application to identify the internet subscription holder
识别网络服务接入用户

Sending notice electronically (by email) within 2 months
2个月内发送电子通知 (电子邮件)

In the event of new alleged offences arising within 6 months after the first notice, sending by email and letter delivered upon signature
如果在首次通知后6个月内出现新指控的罪行, 发送电子邮件和需签收的通知信

In the event of new alleged offences within 12 months after the submission date of the 2nd notice, sending an email and a letter delivered upon signature, noting the gross negligence allegations established. This letter informs the subscriber that these alleged offences are subject to criminal prosecution
如果在第二次通知提交日之后12个月内发生新指控, 发送电子邮件和需签收的通知信, 指出已确定发生重大过失, 并告知网络服务接入用户, 所涉指控可能受到刑事起诉。

Hadopi

Referral to Hadopi CPD 移交Hadopi的权利保护委员会

Verification of the documentation sent by the rights holders
确认权利人发送的文件



Statement of alleged offences by rights holders 权利人控诉声明

Drafting of a report by the rights holders
权利人起草报告



1st notice
首次通知



2nd notice
第二次通知



Letter of notification
通知函

Statement of gross Negligence established
确定重大过失声明

Hadopi

CPD (Rights Protection Commission) review
权利保护委员会审查



Deliberation of submission to the public prosecutor
审议提交公诉机关的资料

The Commission can decide to submit the files to the court in the case of a failure of the educational phase of the graduated response
如果分级响应的“教育阶段”失效, 委员会可决定将相关资料提交法院

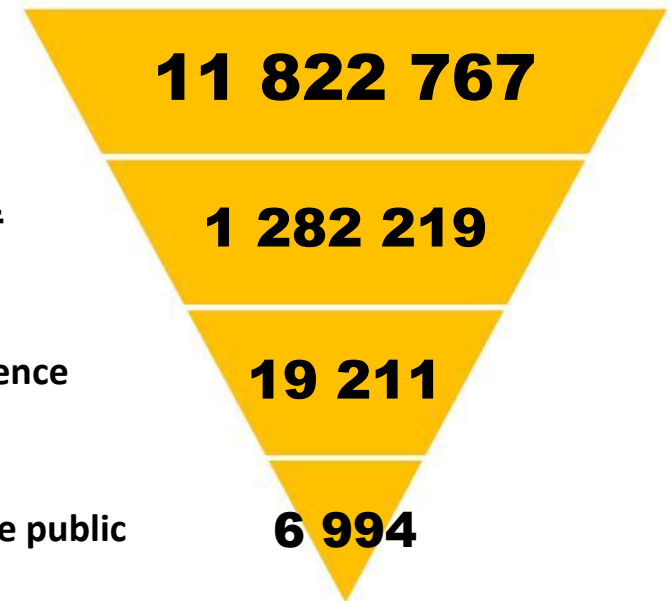


ACTIVITY REPORT 活动报告

Annual activity (2020) 年度活动 (2020)



Overall activity since 2010 2010年以来的总体活动



An efficient educational phase for the majority of the subscribers warned “教育阶段”
对大多数收到警告的网络服务接入用户有效

→ At every step of the procedure, 70 % of them do not reiterate 在分级响应各阶段,
再次发生率仅30%



PROMOTING THE LEGAL OFFER

促进法律服务

Listing legal offers complying with intellectual property rights 列出符合知识产权的法律服务

The screenshot shows the Hadopi website interface. At the top, there are navigation tabs: 'ORGANISATION & MISSIONS', 'OUTILS & USAGES', 'RESSOURCES & DONNÉES', and 'ACTUALITÉS'. Below this is a search bar with the text 'RECHERCHER UN SITE OU UN SERVICE'. To the right, there are sections for 'OUTILS & USAGES' and 'Proposer un site'. The main content area shows search filters for 'Catégorie', 'Mode de lecture', 'Aide', 'Spécificité', and 'Compatibilité'. Below the filters, it says 'Résultats : 423 plateformes' and 'Plateformes recommandées : 420'.

Informing families 通知家人

The infographic is titled 'QUELQUES CHIFFRES' and features three main statistics:

- 83% des internautes naviguent sur des sites légaux et légitimes.
- 49% des enfants de 8 à 14 ans naviguent seuls sur internet ou sans dispositif de contrôle.
- 82% des enfants de 8 à 14 ans ont connaissance des risques encourus sur internet.

 It also includes a section 'ATTENTION LES PAYS LOYERS DES MUSIQUES' and a 'Hadopi' logo. The bottom right corner has the text 'PRENDRE CONSCIENCE GUIDER & PROTÉGER'.

VOD good practices user's guide 视频点播用户最佳做法指南

The cover of the user's guide is blue with white text. It reads: 'REGARDER UN FILM, UNE SÉRIE OU UN DOCUMENTAIRE SUR INTERNET' and 'LE GUIDE DE CONSCIENCE DES CHOIX JURIDIQUES À FAIRE'. The Hadopi logo is at the bottom.

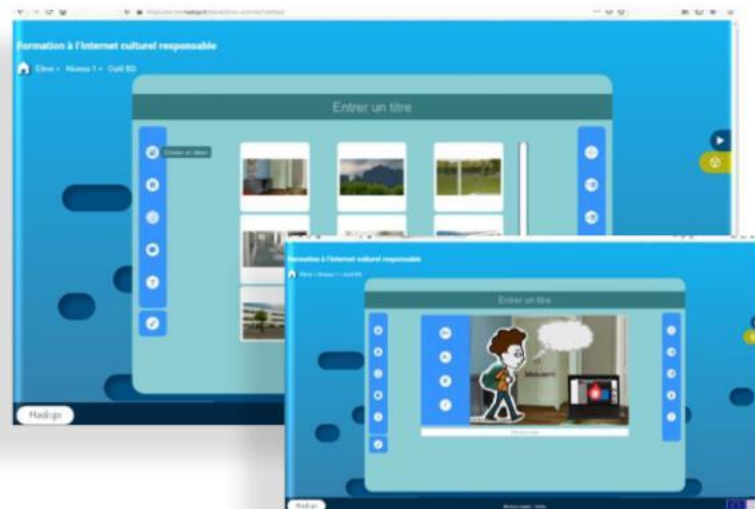
The infographic is titled 'JE SOUHAITE REGARDER UN FILM, UNE SÉRIE OU UN DOCUMENTAIRE SUR INTERNET, QUELS SONT LES DIFFÉRENTS SERVICES LÉGAUX QUI ME SONT PROPOSÉS?'. It lists 'LES SERVICES DE VIDÉO À LA DEMANDE PAR ABONNEMENT (VOD)' and includes a list of services like 'Netflix', 'Amazon Prime Video', 'Canal+', etc. It also features a cartoon character at the bottom.



AWARENESS RAISING 增强意识



In cooperation with the French
ministry of Education 与法
国教育部合作





www.hadopi.fr