

## CONTENTS

<b>1</b>	<b>Introduction</b>	<b>1</b>
1.1	<i>Research Topic: Online Copyright Enforcement</i>	3
1.2	<i>Research Scope: Policy Proposals in the European Union</i>	7
1.3	<i>Theoretical/Analytical Approach and Questions</i>	14
1.3.1	<i>Political Economy of Communications</i>	16
1.3.2	<i>Ideas, Interests and Institutions (3Is)</i>	20
1.3.3	<i>Argumentative Discourse Analysis</i>	23
1.4	<i>Research Methodology</i>	26
1.4.1	<i>Setting the Scene</i>	26
1.4.2	<i>Document Gathering</i>	26
1.4.3	<i>Selection of Key Incidents in the Policymaking Process</i>	27
1.4.4	<i>3Is and ADA</i>	27
1.4.5	<i>Expert Interviewing</i>	27
1.4.6	<i>Interpretation and Conclusion</i>	28
1.5	<i>Chapter Outlines</i>	28
	<i>Bibliography</i>	32
<b>2</b>	<b>The Internet Versus Copyright?</b>	<b>39</b>
2.1	<i>Ideas</i>	40
2.1.1	<i>The Internet</i>	40
2.1.2	<i>Copyright</i>	47

2.2	<i>Discourses</i>	58
2.2.1	<i>Property</i>	58
2.2.2	<i>Commons</i>	59
2.3	<i>Interests</i>	60
2.3.1	<i>Copyright Infringement</i>	61
2.3.2	<i>Media Industries</i>	67
2.4	<i>Institutions</i>	75
2.4.1	<i>Internet Governance</i>	75
2.4.2	<i>Online Copyright Enforcement Policies</i>	92
2.5	<i>Conclusion</i>	103
	<i>Bibliography</i>	109
3	<b>Creative Content Online: 2008 European Commission Consultation</b>	125
3.1	<i>Ideas</i>	129
3.1.1	<i>Problem Definitions and Policy Solutions</i>	131
3.1.2	<i>Copyright and Internet Rationales</i>	145
3.2	<i>Discourses</i>	146
3.2.1	<i>Challenging, New Opportunities</i>	146
3.2.2	<i>Gatekeepers in the Online World</i>	148
3.2.3	<i>Breaches to Limited Liability and Fundamental Rights</i>	149
3.2.4	<i>Discourse Coalitions, Structuration and Institutionalization</i>	149
3.3	<i>Interests</i>	153
3.3.1	<i>Policy Goals</i>	153
3.3.2	<i>Social and Economic Reality</i>	154
3.4	<i>Institutions</i>	155
3.4.1	<i>Policy Legacy</i>	155
3.4.2	<i>Political and Legal Reality</i>	156
3.5	<i>Conclusion: PEC Considerations</i>	158
	<i>Bibliography</i>	160
4	<b>HADOPI: 2009 Graduated Response in France</b>	165
4.1	<i>Ideas</i>	172
4.1.1	<i>Problem Definitions and Policy Solutions</i>	175
4.1.2	<i>Copyright and Internet Rationales</i>	179

<b>4.2 Discourses</b>	<b>182</b>
4.2.1 <i>Prevention of Mass Piracy through Pedagogy</i>	182
4.2.2 <i>Rules of the Road</i>	183
4.2.3 <i>Disproportionate and Unadapted Policy Solution</i>	184
4.2.4 <i>Discourse Coalitions, Structuration and Institutionalization</i>	184
<b>4.3 Interests</b>	<b>189</b>
4.3.1 <i>Policy Goals</i>	189
4.3.2 <i>Social and Economic Reality</i>	189
<b>4.4 Institutions</b>	<b>191</b>
4.4.1 <i>Policy Legacy</i>	191
4.4.2 <i>Political and Legal Reality</i>	192
<b>4.5 Conclusion: PEC Considerations</b>	<b>196</b>
<i>Bibliography</i>	199
<b>5 E-Commerce Directive: 2010 European Commission Consultation</b>	<b>205</b>
<b>5.1 Ideas</b>	<b>209</b>
5.1.1 <i>Interpretation of Intermediary Liability Provisions</i>	210
5.1.2 <i>Notice and Takedown Procedures</i>	216
5.1.3 <i>Effective Specific Filtering Methods</i>	218
5.1.4 <i>Lack of Investment in Law Enforcement</i>	222
5.1.5 <i>Copyright and Internet Rationales</i>	223
<b>5.2 Discourses</b>	<b>225</b>
5.2.1 <i>Need to Provide Legal Certainty</i>	225
5.2.2 <i>Shared Responsibility</i>	225
5.2.3 <i>Private Judge</i>	228
5.2.4 <i>Discourse Coalitions, Structuration and Institutionalization</i>	228
<b>5.3 Interests</b>	<b>232</b>
5.3.1 <i>Policy Goals</i>	232
5.3.2 <i>Social and Economic Reality</i>	235
<b>5.4 Institutions</b>	<b>236</b>
5.4.1 <i>Policy Legacy</i>	236
5.4.2 <i>Political and Legal Reality</i>	236
<b>5.5 Conclusion: PEC Considerations</b>	<b>237</b>
<i>Bibliography</i>	240

<b>6 Anti-Counterfeiting Trade Agreement: 2010–2012</b>	
<b>European Parliament Discussions</b>	247
<b>6.1 Ideas</b>	249
<i>6.1.1 Problem Definitions and Policy Solutions</i>	249
<i>6.1.2 Copyright and Internet Rationales</i>	256
<b>6.2 Discourses</b>	258
<i>6.2.1 Overarching ACTA</i>	258
<i>6.2.2 Pro-ACTA</i>	260
<i>6.2.3 Anti-ACTA</i>	261
<i>6.2.4 Discourse Coalitions, Structuration and Institutionalization</i>	263
<b>6.3 Interests</b>	266
<i>6.3.1 Policy Goals</i>	266
<i>6.3.2 Social and Economic Reality</i>	270
<b>6.4 Institutions</b>	271
<i>6.4.1 Policy Legacy</i>	271
<i>6.4.2 Political and Legal Reality</i>	272
<b>6.5 Conclusion: PEC Considerations</b>	274
<i>Bibliography</i>	277
<b>7 Lessons Learned: Online Copyright Enforcement in the European Union</b>	281
<i>7.1 Research Questions Answered</i>	282
<i>7.1.1 Actors, Ideas and Interests</i>	282
<i>7.1.2 Discourses</i>	285
<i>7.1.3 Institutions</i>	288
<i>7.1.4 Control of Creative Content</i>	289
<i>7.1.5 “Open Character” of the Internet</i>	291
<i>7.2 Essential Study Insights</i>	293
<i>7.3 Policy Implications</i>	297
<i>7.4 Theoretical/Analytical Dimensions</i>	301
<i>7.5 Future Research</i>	303
<i>Bibliography</i>	304
<b>Bibliography</b>	307
<b>Index</b>	341