[AT] Federal Chancellery Hopes to Extend Obligation to Deliver to the Electronic Media

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In the printed media sector there is already a duty to supply and an obligation to deliver: under §43 of the Austrian Media Act (Mediengesetz - MedG), media owners (publishers) who publish printed matter in Austria or who produce material which is published abroad are obliged by law to offer or deliver immediately a prescribed number of copies to particular libraries. The number of copies sent should not exceed seven, or twelve in the case of periodicals. Reimbursement (at half the retail price) is only made if the retail price is higher than ATS 1,600 (in future: ATS 2.000) (§44 MedG). Infringements of the duty to supply and deliver are punishable under administrative law (§45 MedG).

Concerned that, due to a lack of central registration, collection and archiving, the ever-increasing number of electronic media (and therefore a rising proportion of cultural assets) could be lost in the long term, the Federal Chancellery is now proposing that the current duty to supply and deliver be extended to the electronic media; observations on this proposal for an amendment to the Media Act could be submitted any time before the deadline of 2 July 1999.

Whereas §43 of the current Media Act covers printed matter only, the new proposal refers, on the one hand, to all other media products (e.g., records, video cassettes, diskettes and CD- ROMs) and, on the other, to recordings of radio and television broadcasts. In each case, however, only one body is authorised to receive a copy, which has to be delivered only if the authorised body requests it; the administrative and financial cost to the media owner is therefore smaller than for printed matter.

The regulation envisages the following procedure: the media owner (publisher) or producer of other media products (ie non-printed media products) must first of all offer the product - depending on what type of product it is - to either the Austrian National Library, the Federal Authority for Audiovisual Media or to the Austrian Film Archive. If the authorised body requests a copy, the publisher or producer must supply one at its own expense. Broadcasting companies, however, are under no obligation to offer their work and need only take action if the Federal Authority for Audiovisual Media makes a written request for a recording of a programme within ten weeks of its broadcast.

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The explanatory comments on the current proposal expressly state that the provisions of the Copyright Act (Urheberrechtsgesetz) remain unaffected and, in particular, that the limits of statutory licences are only to be judged according to the Copyright Act. The media owner and the appropriate authorised body may lay down detailed arrangements for the use of the product (and in exceptional cases even a ban on its use) in a special agreement.

While the proposal was being drawn up, consideration was also given to whether an obligation to deliver should be established for online publications. However, as the explanatory comments maintain, such a plan does not yet seem "sufficiently safeguarded with respect to information and legal policies". Nevertheless, the Austrian National Library and the Information Economies Association (Verband für InformationswirtschaftVIW) in particular have expressed support for a pilot project to clarify the theoretical and technical conditions for future regulation of the online sector.

Entwurf/Bundesgesetz, mit dem das Mediengesetz geändert wird.

Draft Federal Law to amend the Media Act.

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