[CH] Adapting Copyright to the Information Society

IRIS 2004-10:1/11

Patrice Aubry
RTS Radio Télévision Suisse, Geneva

The Swiss Federal Council has given the cantons, the political parties and the organisations concerned until the end of January 2005 to consider its draft revision of part of the Federal Act of 9 October 1992 on copyright and neighbouring rights (LDA). The main aim of the revision is to adapt the protection afforded to literary and artistic works to the new technologies for communication and digital transmission. According to the Federal Council, the measures proposed are intended to maintain a fair balance between the interests of the various parties involved (creators, the cultural economy and users).

The new provisions would authorise the setting up of technical measures for protection (mechanisms to prevent copying and for locking) in order to protect works and services circulated in digital form either through interactive services or on physical media such as CDs and DVDs. In order to protect the holders of rights against piracy in the digital environment, the draft revision includes the prohibition of circumventing these protective measures. Nevertheless, to ensure that protection does not hamper authorised use (and particularly use for private purposes), the draft includes a number of exceptions that would protect consumers and users from the wrongful use of technical methods of supervision.

The draft revision also provides that making works available on the Internet through on-demand services is to be the exclusive prerogative of the originator. This exclusive right would be extended to performing artists, the producers of phonograms and videograms, and broadcasting bodies. The draft also recognises the moral rights of performing artists in respect of their performances. People with disabilities would also be able to benefit from new copyright waivers a protected work could be reproduced in a form making it accessible to such people where this was justified. On the other hand, a proposal to introduce a right to follow-up for the originators of art works has been deleted from the draft, as it proved impossible to reach agreement on this point either within art circles or with art dealers.

Revision of its copyright law should enable Switzerland to ratify the two "Internet treaties" drawn up by the World Intellectual Property Organisation (WIPO) the WIPO Copyright Treaty (WCT) (see IRIS 2002-1: 2, IRIS 2000-2: 15 and IRIS 1997-1: 5) and the WIPO Performances and Phonograms Treaty (WPPT) (see IRIS 2000-2: 15 and IRIS 1997-1: 5). The proposed provisions are also based on Directive 2001/29/EC of the European Parliament and Council of 22 May 2001 on the

© European Audiovisual Observatory (Council of Europe) 2026

harmonisation of certain aspects of copyright and related rights in the information society (see IRIS 2001-5: 3).

Preliminary draft revision and explanatory report on amendment of federal legislation on copyright and neighbouring rights

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026