[CH] Outcome of Consultation on Revision of Copyright Law

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Patrice Aubry
RTS Radio Télévision Suisse, Geneva

The Swiss Federal Council (government) has circulated a preliminary draft revision of the federal Act on copyright and neighbouring rights among the relevant circles for consultation. This revision is intended primarily to adapt copyright law to the new technologies for communication and digital transmission (see IRIS 2004-10: 6). It should also enable Switzerland to ratify the “Internet treaties” drawn up by the World Intellectual Property Organisation (WIPO) - the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT).

By and large, the proposal to ratify the Internet treaties has been favourably received. However, the provisions concerning the prohibition on circumventing technical protection measures (mechanisms for locking and to prevent copying) are still highly controversial, owing to the divergent interests of artists, users and the cultural economy. Some of the circles consulted consider that these provisions unduly protect the interests of the holders of rights, and are unfair to users. Other organisations, however, consider that the measures intended to improve copyright protection are inadequate to deal effectively with digital piracy. In addition, some organisations fear the improper use of technical protection measures, to the detriment of consumers.

The provisions governing the exception for private use are also the subject of considerable debate between the proponents of a broad interpretation of private use and those seeking a more restrictive definition. In particular, the issue of whether or not to allow the reproduction of a work originating from an illegal source (downloading from exchange websites) is controversial. As things stand, downloading for private purposes will still be allowed, but making music and films available on exchange sites for other users to download will be prohibited.

The provisions enabling people with disabilities to access works in a suitable form have attracted considerable support. However, users' organisations reject the introduction of a non-pecuniary right for performing artists. They consider that the latter are sufficiently protected by civil law rules on privacy protection. Lastly, opinions differ as to whether the transmission of programmes via the Internet should be classed as conventional broadcasting (and consequently made subject to the right to remuneration exercised by management companies) or whether it comes within the new exclusive right to make works available.

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The Federal Council has instructed the Federal Justice and Police Department to draw up a draft revision of the copyright Act by early 2006, taking into account the outcome of the consultation procedure.

Rapport sur les résultats de la procédure de consultation concernant la révision partielle de la loi fédérale sur le droit d'auteur et les droits voisins

http://www.ige.ch/F/jurinfo/documents/j10309f.pdf

Report on the Outcome of the Consultation Procedure concerning the Revision of Part of the Federal Act on Copyright and Neighbouring Rights

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