

[DE] “Second Basket” of Copyright Reform Approved

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On 21 September 2007, the German parliament approved the second law on the settlement of copyright in the information society. In so doing, it followed the recommendation of the coordinating legal committee i.e. not to establish a mediating committee.

With this law that will presumably come into effect on 1 January 2008, the long-running discussions on the “second basket” of copyright reform (see IRIS 2006-5: 11 and IRIS 2006-3: 11) will come to a temporary end.

The new law contains amendments of particular relevance to the field of unknown forms of use, provision of access to works through libraries, private copies and blanket deliveries.

The contractual granting of user rights for still unknown forms of use will, in future, be valid because of the deletion of the previous invalidity rule §31 para.4 of copyright law (UrhG) and the introduction of a new §31a. The author is thus entitled, so long as he makes no use of his right to object under § 31a para. 1 (new version), to an appropriate separate remuneration. Furthermore, for contracts entered into before the coming into force of the new law, and after 1 January 1966, under which an author has granted all essential user rights exclusively to another without limitation on time or place, the user rights will be extended to forms of use unknown at the time the contract was concluded, §1371 UrhG (new version). The author has the possibility to object to this arrangement within a given time-frame.

Under a newly added §52b UrhG, it is to be possible for public libraries, museums and archives to show public works from their stocks at electronic reading stations in the reading rooms. Furthermore, under the new §53 UrhG libraries will be authorised, subject to certain terms and conditions, to prepare and send out copies (including digital) of copyright protected works, made to order.

§53 para. 1 UrhG is supplemented by a reference to exchange arrangements. Private copies are indeed basically admissible but not when they are produced by a “clearly illegally produced or publicly accessible copy”.

Lastly the regulations related to lump-sum copyright remunerations have been supplemented. According to the anticipated amendments in the Law on copyright safeguard in Art. 2, it should, in future, be a matter for the exploitation company

to negotiate rates of remuneration with the hardware and storage media manufacturers' associations. The law provides for appropriate mediation and conciliation procedures.

Beschluss des Bundesrates vom 21. September 2007

[http://www.bundesrat.de/cln_050/SharedDocs/Drucksachen/2007/0501-600/582-07_28B_29,templateId=raw,property=publicationFile.pdf/582-07\(B\).pdf](http://www.bundesrat.de/cln_050/SharedDocs/Drucksachen/2007/0501-600/582-07_28B_29,templateId=raw,property=publicationFile.pdf/582-07(B).pdf)

Beschluss des Bundestages vom 5. Juli 2007 mit der Fassung des Änderungsgesetzes

http://www.bundesrat.de/cln_050/SharedDocs/Drucksachen/2007/0501-600/582-07,templateId=raw,property=publicationFile.pdf/582-07.pdf

Zweites Gesetz zur Regelung des Urheberrechts in der Informationsgesellschaft vom 26. Oktober 2007, Bundesgesetzblatt Jahrgang 2007 Teil I Nr. 54, 31. Oktober 2007

http://www.bmj.bund.de/files/-/2547/bgbl_urheberrecht.pdf

