[FI] Proposed Changes to the Finnish Copyright Act due to the Implementation of the AVMS Directive

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The deadline for the transposition of Directive 2007/65/EC (Audiovisual Media Services Directive - AVMSD) into the national laws of the EU Member States was the 19 December 2009. In Finland, the final adoption of the Directive was scheduled for the beginning of 2010. At the moment, legislative proposals are before the Parliament and the Government bill (HE 87/2009 vp) suggests not only several changes to the Finnish Act on Television and Radio Operations (744/1998), but also some changes to the Finnish Copyright Act (404/1961). The latter have to do with amending Sections 25 b and 48 of the Copyright Act in order to bring them into line with Article 3k of the AVMS Directive on the short reporting right.

Article 3k of the AVMS Directive contains an obligation for Member States to ensure that any broadcaster established in the European Union have access to events of high interest to the public which are transmitted on an exclusive basis. This access is to be ensured for the purpose of transmitting short news reports. Article 3k(3) states that such access can be guaranteed by allowing broadcasters to freely choose short extracts from the transmitting broadcaster’s signal, while the possibility of creating an equivalent system which achieves access through other means is mentioned in Article 3k(4). In Finland the suggestion is that the right be introduced through an amendment of Section 48 of the Copyright Act, which provides for the rights of broadcasting organisations (or the protection of broadcasting signals). The proposed paragraph 5 of the Section would provide for the short reporting right without prejudice to the above-mentioned rights of broadcasters, but it would also define the scope and conditions of short reporting both in accordance with the specific requirements of Article 3k and within the discretion left to Member States to define the modalities and conditions regarding the provision of short extracts (e.g. compensation arrangements, maximum length and time limits). Thus, access is proposed to be ensured on a fair, reasonable and non-discriminatory basis and the extracts should be used solely for general news programmes (including e.g. newscasts on sports channels). The maximum length of short extracts is suggested to be set at 90 seconds and the identification of their source would be required. No form of compensation or remuneration is suggested.

In addition, the proposal suggests a second paragraph to be added to Section 25 b of the Copyright Act. It is stated in Section 25 b(1) that in presenting a current

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event, for example, in a TV transmission, a work which is audibly or visibly part of the event may be included in the transmission to the extent required for the informational purpose. With the new paragraph, a similar restriction concerning works included in television transmissions would apply to short extracts. The amendment would even apply in relation to those provisions on related rights that contain reference to Section 25b (i.e. Sections 45, 46, 46 a, 47, 49 and 49 a).

Hallituksen esitys Eduskunnalle laeiksi televisio- ja radiotoiminnasta annetun lain muuttamisesta ja väliaikaisesta muuttamisesta sekä tekijänoikeuslain 25 b ja 48 §:n muuttamisesta (HE 87/2009 vp)

http://www.finlex.fi/fi/esitykset/he/2009/20090087.pdf

Government bill (HE 87/2009 vp) on amendments and temporary amendments to the Finnish Act on Television and Radio Operations (744/1998), as well as amendments to Sections 25 b and 48 of the Copyright Act (404/1961)

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