[FI] Amendments to the Copyright Act with regard to network recording services

IRIS 2015-7:1/12

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The Finnish Government bill (HE 181/2014 vp) proposed, among others, new provisions for network recording (PVR) services in the Finnish Copyright Act (404/1961) (see IRIS 2015-2/15). In March 2015, the proposal was accepted by Parliament with some amendments. Later, the Act amending the Copyright Act (607/2015) introduced a new Section 25 l to the Finnish Copyright Act. During the legislative process, the Education and Culture Committee proposed minor amendments to the formulation of the provisions and required a right of refusal to be included in the Section. The amending Act entered into force on 1 June 2015.

Section 25 l (1) states that the provider of a network recording service may make a copy of a work included in a programme transmitted on television by virtue of an extended collective licence pursuant to Section 26. This copy may be used for making available to the public in such a way as to enable the programme to be viewed and listened to by customers of the recording service provider, from a place and at a time chosen by them. Paragraph 1 does not apply to a work the author of which has assigned to the broadcasting company the right to decide on the use of the work pursuant to paragraph 1 (paragraph 25 l (2)).

Paragraph 3 includes another restriction on the applicability of paragraph 1, if the producer has acquired the rights of relevant authors to decide on the use of works included in the programme pursuant to paragraph 1 and the producer has refused the use of the programme. Originally, no right of refusal for individual non-represented authors was proposed, since licensing could have been rendered impossible. The Education and Culture Committee agreed, but deemed it necessary anyway. Otherwise, authors could actively seek to challenge network recording services. The right was channelled to be exercised via the producer.

In addition, references to Section 25 l where included in the provisions on related rights, excluding the protection of transmission signals in Section 48 of the Copyright Act. According to the Government bill, contracting is required both with the broadcasters and the organisation(s) representing right-holders. The former grant permissions regarding own and acquired rights, as well as negotiating on the practical execution, while the latter grant permissions with regard to rights that have not been transferred to broadcasters. By force of law, the effects are extended to right-holders not represented by the organisation(s) (see paragraph

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26). All programming is, in principle, covered by the provision, but contracting may lead to different solutions. The starting point is streaming for private customers, while offline viewing could also be agreed upon.

Section 26 on extended collective licenses was also modified. Paragraph 1 was reformulated so as to clarify the legal basis of the extensive effects. The organisation approved by the Ministry of Education and Culture, which represents, in a given field, authors of works used in Finland, is deemed representative also of authors of other works in the same field with regard to the contract in question. All works in a given field could be used as prescribed by the licence (paragraph 26(1)) The language used in Section 26 was also updated and the terminology now corresponds to that used by the EU.

Other amendments included a new title for each Section of the Copyright Act.

Hallituksen esitys eduskunnalle laiksi tekijänoikeuslain muuttamisesta (HE 181/2014 vp)

https://www.eduskunta.fi/FI/vaski/HallituksenEsitys/Documents/he_181+2014.pdf

Government bill on Act amending the Copyright Act

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