[CH] Bill to amend legislation on copyright

IRIS 2016-2:1/6

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The Swiss Government has submitted an important bill revising national legislation on copyright for consultation by 31 March 2016. Based on the recommendations of the AGUR12 working party (see IRIS 2014-8/15), the aim of the bill is to increase the fight against Internet piracy and to adapt the legal provisions to recent technological developments. The ultimate aim is to strike a fair balance between the interests of performers, the cultural economy, and users of works protected by copyright, in order to promote the development of legal offers on the Internet.

To achieve this, the bill proposes involving the suppliers of Internet services directly in the fight against piracy, since they are in a position to take speedy, targeted action to remove illegal offers. Thus Swiss hosts would be required to remove from their servers any content which infringed copyright. Furthermore, on instruction from the authorities, access suppliers headquartered in Switzerland would have to block access to illegal offers if the company hosting the content was headquartered elsewhere, or concealed its headquarters. An opposition procedure would make it possible to avoid unjustified or excessive blocking preventing access to lawful content (‘overblocking’). In return for the new obligations required of them, the Internet service providers would not be held liable for any infringements of copyright committed by their customers, and would thus have the benefit of greater legal security.

If serious infringements of copyright were committed over the peer-to-peer networks, the courts - at the request of the rightsholders - would be able to order the access providers to send messages to the users concerned, enjoining them to stop and making them aware of the consequences of failure to abide by the law. ‘Serious infringements’ would be deemed to include making a work available on the Internet without authorisation before it had been made public (a film prior to release, for example), or making a large number of works available (thousands of music files, for example). Should the infringements continue despite two warnings being sent within a twelve-month period, the courts would be able to communicate the identity of the user concerned to the wronged party, who would then be in a position to instigate civil proceedings and obtain reparations for the prejudice suffered. This procedure would simplify copyright infringement proceedings as it would no longer be necessary to instigate criminal proceedings.

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To facilitate the acquisition of the necessary rights and authorisations from each rightsholder for the use of content on the Internet where use covers a large number of protected works or performances, the bill provides that the management companies would be able to exercise the exclusive rights held by those rightsholders who were not affiliated to any management company. Inspired by the model of the 'extended collective licence', this system aims to make it easier to make new offers available in line with the evolution of market needs. To preserve the economic freedom of the rightsholders, they would be able to request that the management companies exclude their works from the collective management at any time (thereby opting out of the system).

Lastly, the Swiss Government has also submitted for consultation two treaties it wishes to ratify and implement in the field of copyright, namely the Beijing Treaty on Audiovisual Performances and the Marrakech Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired or Otherwise Print Disabled.

Projet de modification de la Loi fédérale sur le droit d'auteur du 11 décembre 2015

https://www.admin.ch/gov/fr/accueil/documentation/communiques.msg-id-59918.html

Bill to amend national legislation on copyright, 11 December 2015

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