

First German bill implementing EU copyright reform published

IRIS 2020-3:1/16

*Jan Henrich
Institute of European Media Law (EMR), Saarbrücken/Brussels*

On 15 January 2020, the *Bundesministerium der Justiz und für Verbraucherschutz* (Federal Ministry of Justice and Consumer Protection) tabled a bill implementing Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market, which was adopted on 17 April last year. The bill begins by addressing the protection of press publications with regard to online uses and the contribution of publishers, which form part of the EU copyright reforms. It explains the rights of publishers of press publications, as described in Article 15 of the Directive; contains rules on text and data mining; and entitles publishers to a share of compensation for the use of their works.

Last September, the European Court of Justice had ruled that a right to protection for press publishers, enshrined in German copyright law since 2013, was inapplicable. It had found a formal breach of notification requirements. The new bill is structurally similar to the existing regulations, with a few changes based on the Directive.

In concrete terms, press publishers will, in future, have the exclusive right to disseminate and copy their press publications in full or in part via online services such as search engines. Exceptions include the private or non-commercial use of a press publication by individual users, the setting of hyperlinks, and the use of individual words or very short extracts. The bill contains a detailed definition of such 'short extracts'.

The bill also implements EU provisions concerning text and data mining, digital and cross-border teaching activities and the preservation of cultural heritage specifically in relation to the protection right of press publishers.

As far as claims to remuneration are concerned, the bill provides for publishers to receive a greater share in appropriate compensation for permitted uses, such as private copying or reproduction for scientific or academic purposes. The rules will apply to compensation claims made by collecting societies jointly representing the rights of authors and publishers. However, the bill states that at least two-thirds of the revenue should be paid to authors.

The EU Directive must be transposed into domestic law by 7 June 2021. However, the Federal Ministry of Justice and Consumer Protection has said that the

proposed rights for press publishers would enter into force before that.

Diskussionsentwurf des Bundesministeriums der Justiz und für Verbraucherschutz: Entwurf eines Ersten Gesetzes zur Anpassung des Urheberrechts an die Erfordernisse des digitalen Binnenmarkts

https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/Dokumente/DiskE_Anpassung%20Urheberrecht_digitaler_Binnenmarkt.pdf?__blob=publicationFile&v=1

Draft discussion paper of the Federal Ministry of Justice and Consumer Protection: first bill on adapting copyright law to the requirements of the Digital Single Market

