[DK] Draft implementation of EU copyright directives

IRIS 2021-5:1/9

Terese Foged
Legal expert

After a short public hearing on 26 March 2021, a bill was introduced in parliament which implements in Danish law Articles 15 and 17 of the Directive 2019/790 on copyright and related rights in the Digital Single Market (DSM Directive) as well as the Directive 2019/789 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes (SatCab II Directive). The bill's keyword is rights clearance.

Going further than the SatCab II Directive, the bill also proposes a possibility for clearing rights via extended collective licensing when TV distributors and other third parties redistribute independent streaming services, i.e. non-broadcaster streaming services such as Netflix, HBO Nordic, Disney + and the like. Extended collective licence implies that according to the law, a user – who has made an agreement on a particular exploitation of a certain type of work with an organisation (a collecting society, i.e. collective management organisation) comprising a substantial number of right holders of this type of work – obtains the right to use works of the same type owned by non-members of the organisation, in the same manner and on the terms that follow from the agreement with the organisation. The organisation must be approved by the Ministry of Culture for extended collective licence regarding the area in question. Provisions on extended collective licensing already exists for redistribution of streaming services from broadcasters.

The bill observes that the purpose of the two directives is to harmonise the EU Member States' legislation with the specific aim of modernising copyright in light of digital development, especially technologies that give access to copyrighted material such as films and music via the Internet.

Similarly, the bill's purpose is to modernise copyright, taking into account the development of digital technologies and particularly the access to copyrighted material via the Internet.

The bill stresses that user-driven tech giants, for example YouTube, are among the most important sources for access to content online, and that they are the means to secure broader access to cultural and creative works and to provide opportunities for new business models for the cultural and creative sector.

© European Audiovisual Observatory (Council of Europe) 2026

However, there is a need for a fair and well-functioning marketplace when these big platforms negotiate rights. Therefore, the intent with the implementation of Articles 15 and 17 of the DSM Directive is to create a better functioning market place for copyright, and by this, secure that the rightsholders' position vis-à-vis the tech giants is strengthened to the end that fair terms, including payment, to rightsholders when the tech giants use their content online are obtained.

Articles 15 and 17 of the DSM Directive regard services that will often act internationally, and that is why, according to the bill (the preparatory works), a high level of harmonising is required. It is therefore the assessment of the Ministry of Culture that the implementation must be very close to the wording of the directive.

The SatCab II Directive implies an update to the rules on broadcasters' primary activity that has moved from satellite to include online services; plus an update to distributors' retransmission that has moved from traditional cable to include other platforms, including those online.

But as mentioned, the Danish bill goes further than the SatCab II Directive. The preparatory works note that TV distributors have started offering streaming services, including non-broadcaster originated, to their customers as part of a TV package. This calls for expansion of the existing licensing scheme on the redistribution of broadcaster streaming services.

Finally, the purpose of the proposed legislation is to establish that enterprises which carry out independent business offering content from several TV channels and/or online services - i.e. in the way that there are two independent economies - must clear rights (that are not cleared already) with a collective organisation, irrespective of the technique employed.

If the bill is passed, the law will enter into force on 7 June 2021, meaning just in time to meet the similar deadline of the two directives. The implementation of the remaining DSM directive will take place in a coming bill.

Forslag til Lov om ændring af lov om ophavsret (Implementering af dele af direktiv om ophavsret og beslægtede rettigheder på det digitale indre marked samt direktiv om regler for udøvelse af ophavsretten og beslægtede rettigheder, der gælder for visse af TV- og radioselskabernes onlinetransmissioner samt retransmissioner af TV- og radioprogrammer m.v.)

https://www.ft.dk/ripdf/samling/20201/lovforslag/l205/20201_l205_som_fremsat.pdf

© European Audiovisual Observatory (Council of Europe) 2026

Draft Act amending the Copyright Act (Implementation of parts of the Directive on copyright and related rights in the digital single market and the Directive on the rules governing the exercise of copyright and related rights applicable to certain online broadcasts by TV and radio broadcasters and retransmissions of TV and radio programmes, etc.)

© European Audiovisual Observatory (Council of Europe) 2026

© European Audiovisual Observatory (Council of Europe) 2026