[DE] *Bundestag* finally approves Copyright Act amendment

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On 31 May 2021, the German *Bundestag* (lower house of parliament) adopted the federal government bill of 12 February 2021 bringing the copyright law into line with the requirements of the Digital Single Market. The new legislation is designed to implement the Digital Single Market Directive (DSM Directive (EU) 2019/790).

The main purpose of the bill is to reform the copyright liability of online platforms. Under its provisions on platform liability and extended collective licences, new legal instruments are introduced in German copyright law. It also amends numerous provisions of the *Urheberrechtsgesetz* (Copyright Act – UrhG) and *Verwertungsgesellschaftengesetz* (Collecting Societies Act – VGG). One particularly controversial topic during the legislative process was how Article 17 of the DSM Directive should be implemented. In this regard, the bill adopted by the *Bundestag* will create a new *Urheberrechts-Diensteanbieter-Gesetz* (Copyright Service Provider Act – UrhDaG), which regulates the copyright liability of upload platforms for new content uploaded by users (Article 1 UrhDaG). Under the bill, platform operators are generally liable unless they have taken sufficient measures to prevent copyright-infringing content being uploaded. Such measures include upload filters, which have been heavily criticised, especially on the grounds that they might restrict freedom of expression and artistic freedom. These fundamental rights are recognised in the bill through provisions on quotations, caricatures, parodies and pastiches (see Article 5 UrhDaG), which are designed to ensure that artistic freedom and social communication are adequately protected. In addition, when copyright-protected works are used, authors are entitled to receive direct remuneration from platforms under Article 4(3) UrhDaG. According to Articles 14 and 15 UrhDaG, a complaints procedure will be created for cases involving unresolved disputes between platforms, rightholders and users. Another important new instrument designed to implement the DSM Directive is the granting of extended collective licences, which should make it easier to use works on a contractual basis (see Article 51 VGG-E). In order to implement Article 15 of the DSM Directive, new rules are also introduced concerning the ancillary rights of press publishers in Articles 87f to 87k UrhG-E, bringing these into line with EU law. Following the removal of Article 24 UrhG on the free use of works, permitted uses of caricatures, parodies and pastiches are governed by Article 51a UrhG-E.

The amended Act, which entered into force on 7 June 2021, also implemented the Online SatCab Directive (EU) 2019/789, which contains new regulations on online exploitation of broadcast programmes. This change was introduced in response to

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the judgment of the Court of Justice of the European Union of 29 July 2019 in the Pelham case.

Gesetz zur Anpassung des Urheberrechts an die Erfordernisse des digitalen Binnenmarktes vom 31. Mai 2021

https://www.bgbl.de/xaver/bgbl/start.xav?startbk=Bundesanzeiger_BGBl&start=//*%5b@attr_id=%27bgbl121s1204.pdf%27%5d#__bgbl__%2F%2F*%5B%40attr_id%3D%27bgbl121s1204.pdf%27%5D__1623248346902

Act of 31 May 2021 bringing copyright law into line with the requirements of the Digital Single Market

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