[LV] Amendments to the Copyright Law enter into force in Latvia

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Ieva Andersone, Krišjānis Knodze& Sabīne Stirniņa Sorainen

On 5 April 2023, amendments to the Copyright Law came into force. With the amendments, the Directive on Copyright in the Digital Single Market (DSM Directive) was transposed into Latvian law, providing for significant changes in copyright regulation, affecting both authors and performers, as well as users of works.

Transposition of the DSM Directive

Appropriate and proportionate remuneration:

One of the most significant changes is the introduction of the principle of appropriate and proportionate remuneration. Namely, it will be necessary to determine a fair remuneration to the author for the alienation of economic rights or for rights of the use of work. This principle is applicable both to agreements by which the author completely or partially alienates his property rights, as well as to license agreements.

To ensure fair remuneration, the obligation of transparency is introduced. It requires successors and licensees to provide the author with up-to-date and comprehensive information about the use of the work at least once a year, including the type of use, earned income and remuneration. The amendments also provide for the author's rights in case of disputes. Namely, the author is entitled to ask the successor or licensee to amend the contract, setting a fair remuneration, and to pay the difference in remuneration. The author also has the right to demand additional remuneration if the remuneration specified in the contract will be disproportionately small compared to all the revenues obtained directly as a result of the use of the right or work after the conclusion of the contract.

The right to terminate the contract if the use of the work or performance has not yet begun within two years:

To prevent situations where the authors' works are not used, the author can now unilaterally withdraw from the contract if the successor or licensee has not started using the work within two years from the conclusion of the contract or the transfer of the work to the client, if it happened after the conclusion of the contract. This

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right cannot be used if the author could have prevented the circumstances that prevented the use.

Related rights for press publishers regarding online use of press releases by information service providers:

Since publications available online are often republished for revenue, the amendments establish related rights for press publishers in relation to the published press releases online, which will be valid for two years from the moment of publication.

Publishers are now able to allow or prohibit the copying and posting of press releases online. Therefore, online service providers need to obtain permission to use such releases. At the same time, publishers will be entitled to a proportionate share of the revenue for the online use of press releases. The Copyright Law also defines cases when a permit will not need to be obtained:

- if the press release is used by an individual user for personal needs or for non-commercial purposes;

- for inserting a hyperlink;

- for the use of individual words or very short fragments.

However, even in the cases of exceptions, it is necessary to consider various factors, such as the copyright, which the author may have already obtained due to his contribution.

Content-sharing service providers' responsibility for the materials uploaded by users:

Content-sharing service platforms make it possible for their users to upload content that is protected by copyright and related rights, often without obtaining consent from the rightsholders. Consequently, platforms that play a significant role in the online content market are responsible for obtaining permission from copyright and related rights subjects.

In cases where the content-sharing service provider has not obtained permission from the copyright subjects, it will be liable for the violation of rights, unless three conditions are met that exempt the content-sharing service provider from liability:

- it has made best efforts to obtain an authorisation;

- it has made the best efforts to ensure the unavailability of specific works for the public; and in any event

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- acted expeditiously, upon receiving a sufficiently substantiated notice from the rightsholders, to disable access to, or to remove from their websites, the notified works, and made best efforts to prevent their future uploads.

Other changes in Copyright Law unrelated to the DSM Directive

The employer's right to obtain the right to use the work:

Taking into account the employer's investment in the creation of the work, the amendments provide for the employer's legal right to use the employee's work for the purposes for which it was created. In this way, the employer will receive the right to use the work even in cases where such rights have not been contractually agreed with the employee. However, the basic principle remains intact – the copyright to a work created within the framework of the employment relationship remains with the employee, unless the property rights have been transferred to the employer by the employment contract.

The inability to prohibit modification and addition of a computer programme:

Important changes were introduced regarding the author's personal rights to computer programmes. Considering that the exercise of personal rights of authors may interfere with the normal process of updating and developing computer programmes, they have been limited. Authors are no longer able, on the basis of their personal rights, to prohibit the modification and addition of computer programmes. The only exception is the violation of the author's honour or reputation.

Copyright Law

Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market

https://eur-lex.europa.eu/eli/dir/2019/790/oj?locale=en

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