Media release of the copyright working group (AGUR12 II)

Modernisation of copyright law – compromise in the AGUR12 II

Bern, 2 March 2017. The copyright working group AGUR12 II concluded its work on 2 March 2017 and reached a compromise on various issues. The Federal Department of Justice and Police (FDJP) will take into consideration the results of the AGUR12 II on the revision of the Copyright Act and submit a proposal on how to proceed to the Federal Council by July 2017.

The AGUR12 II copyright working group further specified the recommendations of the AGUR12 from the end of 2013 on a revision of the Copyright Act. It reached a compromise on various issues concerning the modernisation of copyright law. The public consultation had shown that ideas on approaches to the revision diverged strongly. The FDJP therefore mandated the AGUR12 II to clarify outstanding issues from the consultation on the revision of the Copyright Act in autumn 2016. The working group met five times between 28 September 2016 and 2 March 2017 under the direction of the Swiss Federal Institute of Intellectual Property (IPI). Taking part in these meetings were not only creative artists, producers, users and consumers, but also internet service providers, the Federal Office of Justice and other representatives from the federal administration.

Compromise on the key issue of combating piracy

A compromise was reached on anti-piracy measures in particular. The fight against piracy should occur where it is most effective, namely with hosting providers who can act quickly and in a targeted manner. Swiss hosting providers should not host piracy platforms and should rapidly remove affected content in cases of copyright infringement via their servers. Self-regulation is paramount here, which already works successfully today. However, if hosting providers create favourable conditions for copyright infringement, they must ensure through a "stay down" that copyright infringements, once eliminated, also remain eliminated. It should also be explicitly laid down in law that the processing of data for the prosecution of copyright infringement is permissible. Not included in the compromise package are blocking measures through access providers (known as internet blocking) nor the sending of notifications for severe copyright infringement via peer-to-peer networks.

Compromise on other issues

The AGUR12 II package also includes a series of further measures for modernising Swiss copyright law: an inventory index privilege for the benefit of users and consumers, a royalty-free exception for scientific purposes as well as the use of orphan works. For creative artists, the package contains an extension to the period of protection for related rights, protection for photographs lacking individuality and remuneration for authors and performers for video-on-demand uses. Finally, the compromise also includes the introduction of extended collective licensing, improvements in the tariff approval process as well as electronic user notification to the collective rights management organisations.

The FDJP will take into consideration the results of the AGUR12 II and submit a proposal on how to proceed to the Federal Council by July 2017.

Further information on AGUR: https://www.ige.ch/en/copyright/agur12.html and on the chronology of the ongoing revision of the Copyright Act: https://www.ejpd.admin.ch/ejpd/en/home/aktuell/themen/urg.html.

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