

**Media Release
of the Copyright Working Group (AGUR12)**

Recommendations for the modernisation of copyright

Bern, 6 December 2013. The copyright working group (AGUR12), appointed by Federal Councillor Simonetta Sommaruga in August 2012, has published its final report. In the working group, artists and representatives of producers, the economy, users and consumers have collated and intensively discussed, for well over a year, the numerous criticisms levelled at copyright in the digital age. As a result, the AGUR12 has proposed a package of measures in five main areas: improving information for consumers, expanding and thus increasing the attractiveness of legal offers, simplifying the fight against piracy, increasing the efficiency and transparency of the collective rights management organisations, as well as adapting the limitations and exceptions to copyright to recent developments. These recommendations are addressed partly to rights owners and the collective rights management organisations, and partly to the legislature and the federal administration. Downloading from the internet should remain permissible; unauthorised uploading, however, will remain illegal.

The issues of most concern to artists and producers, with regard to piracy, are companies who commercially run pirate websites. Such websites unfairly compete with legal offers and avoid being caught through the clever choice of location or technical concealment. The AGUR12 proposes that, in serious cases, access providers situated in Switzerland be required to block access, on the order of the authorities, to web portals featuring obvious illegal sources by means of IP and DNS blocking. The blocking of authorised content together with unauthorised content (overblocking) is to be avoided, as far as is possible, by the competent authorities. All blocking measures are to be made publically known in an appropriate form by the said authorities and they may not compromise the technical functionality of the IP or DNS system. The threshold for serious cases needs to be set in such a way that the access provider does not have to implement excessive blocking measures. In addition rights owners should appropriately compensate access providers for the costs incurred as a result of blocking access. To this end, it is necessary to establish the necessary legal basis and to provide a guarantee of judicial review.

However, the AGUR12 disagrees with prosecuting internet users. Access providers should be required to provide the details of internet connection subscribers when ordered to do so by the authorities, but only if the user offers illegal content via file-sharing on a large scale, and only if they have had prior notification by the access provider at the request of the rights holder or a competent authority. In this way, internet connection subscribers are to be informed of the legal situation. However, this additional instrument would not result in a tightening of the existing situation. On the contrary, rights owners already have the possibility of reporting a criminal offence, which is why there is always the threat of an unannounced house search and computer seizure for those who infringe copyright. Internet connection subscribers will now have the possibility of avoiding prosecution by taking action based on the notification received, such as by password-protecting access to their connection, for example.

The activities of public libraries, museums and archives have dramatically changed with the age of the internet, which is why the working group also proposes the creation of a statutory license to newly provide inventory indexes with information about the content. In addition, it recommends investigating how copyright can be safeguarded on social media platforms.

Efficiency and transparency of the collective rights management organisations

The collective rights management organisations play an important role in the Swiss cultural landscape. They guarantee an important income for many artists and ensure legal certainty by playing an intermediary role in the simplification of the acquisition of rights, without which services such as internet television would simply not exist. In the opinion of the AGUR12, the collective rights management organisations should take additional steps towards transparency and efficiency. Rights management should be further simplified and the possibilities of electronic data processing should be better exploited. Moreover, the procedure for approving tariffs should be streamlined by the competent authority.

Encouraging legal offers and avoiding multiple royalty payments

These measures should ultimately lead to more attractive legal offers and thus fulfil a key demand of consumers. Eliminating any legal obstacles for creating such legal offers, as well as avoiding unintentional multiple royalty payments are in this context essential. The AGUR12 recommends a broad exemption from liability for internet service providers, a proposal which is based on European law. Copyright therefore comes full circle with attractive legal offers being one of the most effective means of fighting piracy.

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