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Important changes to Copyright Act

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Intellectual Property, Spain

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Introduction

Act 2/2019 of 1 March 2019 has modified the consolidated text of the Copyright Act (1/1996) of 12 April 1996 and incorporated the following EU directives into the Spanish legal system:

- EU Directive 2014/26/EU on the collective management of copyright and related rights and the multi-territorial licensing of rights in musical works for online use in the internal market; and
- EU Directive 2017/1564/EU on certain permitted uses of specific works and other subject matter protected by copyright and related rights for the benefit of persons who are blind, visually impaired or otherwise print disabled.

In addition to incorporating the above directives into Spanish law, this reform has:

- reinforced the rights of authors and publishers (ie, the press);
- introduced new regulations on the functioning of collecting societies (previously under-regulated) in order to increase the transparency and control of their operations in favour of authors; and
- strengthened the regulations on combating piracy.

Key amendments

New regulation of authors' resale royalties for graphic and plastic works

Under the new Article 24 of the Copyright Act, after first selling a graphic or plastic work, authors can receive a percentage of the resale price of said work from the seller.

Amendments to compensation for private copying

Under the new Article 25 of the Copyright Act, physical or legal persons, which are not exempted from receiving compensation, may request a reimbursement of compensation for private copying (in certain circumstances) within one year.

Enhanced regulations on accessibility to certain rights for disabled persons

Under the new Article 31^{ter} of the Copyright Act, certain rights may be used (under certain circumstances) for the benefit of disabled persons without the rights holder's authorisation.

Changes to use of citations and reviews for educational or scientific research purposes

Under the new Article 32 of the Copyright Act, the reproduction, distribution or public communication within an organisation of all or part of a press article in a dossier must be authorised by the author.

Regulation of independent collecting entities

Independent collecting entities are now regulated separately for the first time under the Copyright Act. Such entities include:

- copyright collecting societies which are not established in Spain (Article 151);
- entities which are dependent on a copyright collecting society (Article 152); and
- independent management operators (Article 153).

Regulation of multi-territorial online music licences

The new Articles 170 to 174 of the Copyright Act enable online music providers to obtain, for the first time, a single licence which applies throughout the European Union.

Changes to regulation of copyright collecting societies

Strengthening of authors' rights

Following the amendments, authors can now terminate contracts with a collecting society in whole or in part (Article 158). Further, Article 177 of the act requires collecting societies to pay rights holders within nine months.

Increased transparency, governance and copyright management of copyright collecting societies

An internal control unit has been created to monitor copyright collection societies (Article 162). Further, collecting societies must now produce a transparency report with detailed financial and economic management information (Article 189) and publish on their website their bylaws, annual accounts, transparency reports and an inventory of the copyrights which they manage (Article 185).

Changes to the way in which the Copyrights Commission works

There have been a number of changes to the way in which the Copyrights Commission operates. For example, it is now possible for the Second Section of the Copyright Commission to shut down websites which use copyrighted works without the owner's consent without prior judicial authorisation, where this is justified by the seriousness and the repercussions of the infringing conduct. Such actions may be appealed before the courts (Article 195.6(b)).

Comment

This reform has amended Titles IV, V and VI of the third book and introduced other amendments to the fourth book of the consolidated text of the Copyright Act and has effectively brought Spanish copyright law into line with that of the European Union.

For further information on this topic please contact Paula Gutiérrez at Grau & Angulo by telephone (+34 93 202 34 56) or email (p.gutierrez@ga-ip.com). The Grau & Angulo website can be accessed at www.ga-ip.com.

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