

Managing Intellectual Property

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TURKEY: PROPOSED CHANGES TO COPYRIGHT LAW

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The Turkish Intellectual and Artistic Works Law No 5846 (the Copyright Law) is the law regulating copyright protection in Turkey. Law 5846 was first enacted in 1951. It has been amended several times in 1995, 2001 and more recently in 2004 to comply with the requirements of international treaties.

Since November 2016, a Draft Law has been prepared amending Law 5846 and the Turkish Ministry of Culture and Tourism has recently published the Draft Law, including the proposed amendments, to collect opinions from stakeholders.

The Draft Law changes 36 of the Articles of Law 5846, introducing 26 new Articles while cancelling two Articles. Some of the major changes are listed below:

The Draft Law aims to reorganise collecting societies in Turkey to address the difficulties of effective collective right management. In Turkey there are 27 collecting societies in six work categories, namely cinematographic works, musical works, fine art works, literature works, radio-television and drama works. In each category each collecting society represents a different author group and this complicates the process for clearing the rights on a work as each collecting society should be applied to separately. In 2013, the four major collecting societies in the music industry formed a common licensing unit on their own initiative and this common licensing unit facilitated the clearance procedure. The Draft Code introduces a compulsory common licensing unit for all collecting societies in each industry with an aim to form a single unit to be applied in each work category for licensing purposes.

The Draft Law also strengthens the collecting societies as the Draft Law introduces an obligatory collective right management. Accordingly some of the rights, namely the right to obtain "adequate remuneration" as described in Law, the right of the authors of the fine arts to obtain shares from re-selling of the work and also the right of communication to public of the musical works will not be individually enforced but the collecting societies will enforce these rights of their individual members.

The Draft Law introduces the international exhaustion principle for computer software and databases.

The Draft Law introduces stronger measures for combatting copyright infringements in digital media. For this purpose a Centre for Combatting Digital Violations within the Ministry of Tourism and Culture will be headed by a public prosecutor. In this manner authors who believe that their rights are infringed will first apply to this Centre to act immediately and effectively.

It is expected that the Draft Law will be on the agenda of Parliament within the second half of 2017.



Uğur Aktekin

Hande Hançar
Çelik