

Important changes in Greek Copyright Law



Following many years of discussions and intense consultations, new law no. 4996/2022 transposes into Greek legislation the Directives (EU) 2019/789, (EU) 2019/790 and 2006/115/EC and brings remarkable changes to laws 2121/1993 and 4481/2017, which are expected to have significant impact on various sectors of the so-called “cultural and creative industries”. The new law responds to a large extent to the new conditions created by the use of new technologies not only for both authors/rightsholders, but also for users of protected works/subject matters and significantly strengthens the position of the former, by introducing new rights and ensuring their participation in new exploitation markets, as well as that of the latter, by introducing new exceptions/limitations, from which they may, under certain conditions, benefit for certain purposes. Due to the large amount of the introduced changes, only the most important ones are presented below:

1. Granting new rights to authors of works and performers.

Authors and performers are granted with a number of rights, aiming at strengthening their position when concluding agreements for the exploitation of their works/protected subject matters and ensuring their effective remuneration from the revenue derived therefrom.

Who is affected by the new provisions:

- Authors of protected works.
- Performers.
- Counterparties of authors/performers on exploitation contracts/licenses.

Rights granted to authors & performers:

- a) The right to receive appropriate and proportionate remuneration for all exploitations of their works/protected subject matters.
- b) The right to claim additional appropriate and fair remuneration, in those cases, where the initially agreed price ultimately proves to be disproportionately low compared to all the relevant subsequent revenues from the exploitation of the concerned work/protected subject matter.

The above rights do not apply to: agreements concluded by Collective Management Organizations (CMOs) and independent management entities.

- c) The right to receive on a regular basis, at least once a year, up to date, relevant and comprehensive information on the types of exploitation and promotion of their works/protected subject matters, all relevant revenues and remuneration due.

The above right does not apply: a) when the contribution of the author or /performer is not significant, having regard to the overall work (unless the author/performer concerned requests the relevant information in order to exercise his right to additional remuneration), b) in cases where information is provided by CMOs to beneficiaries on the management of their rights, due to the existence of specific legislation and c) in agreements resulting from collective bargaining (where the transparency rules of the relevant collective bargaining agreement are applicable, provided that those rules meet the criteria of law 2121/1993).

d) The right to revoke the relevant transfer agreements and exclusive exploitation agreements/ licenses or to terminate the exclusivity of the latter, where there is a lack of exploitation of that work or other protected subject matter.

The above right does not apply: i) to cinematographic and audiovisual works in general and ii) may not be exercised by the author of a work created with the contribution of several authors, if his or her own contribution is not significant.

2. New related right of press publishers

A new related right is established for press publishers, who can now license or prohibit the on-line commercial use of their publications by information society service providers (mainly news aggregation services or news index services), while at the same time, the authors of works incorporated in the above publications are granted with a right to participate in the revenues generated by the relevant exploitations.

Who is affected by the new provisions:

- All press publishers (of journalistic publications, published in any media, including on paper, other than those with a scientific or academic purpose) established in an EU Member State.
- Authors of works incorporated into press publications.
- Information society service providers.

Rights granted to press publishers:

Press publishers are granted with the right to authorise or prohibit:

- a) the temporary or permanent reproduction in any medium and in any form in whole or in part of their publications for online use; and
- b) the distribution to the public, by wire or wireless means, of their publications in such a way that anyone can access them wherever and whenever they choose.

These rights shall expire two (2) years after the press publication is published.

The above rights do not apply/extend to:

- private or non-commercial uses of press releases by individual users;
- uses of individual words;
- uses of very short extracts, the use of which does not affect the effectiveness of publishers' rights;
- acts of hyperlinking.

Obtaining license from press publishers:

For any acts falling within the scope of protection of the above-mentioned rights, the online service providers must obtain a license from the press publishers. The compensation due to the latter is subject to an agreement between the parties involved (press publishers and online service providers). In the event of a disagreement as to the amount of the compensation, any of the parties may first refer the issue to the Hellenic Telecommunications and Post Commission (HTPC), which has to issue until 01.02.2023 a Regulation with criteria, which should be considered for the calculation of such amount, and if the issue is not resolved, to the civil courts.

Rights of authors of works incorporated in press publications:

The authors of works incorporated in press publications (journalists, photographers, etc.) are entitled to participate compulsorily with a specific percentage provided by law in the annual revenues of the publishers resulting from the above mentioned exploitation of their works (this percentage is set at 25% of the publishers' annual revenues, for undertakings employing less than 60% of authors with an employment agreement, and at 15% of the publisher's revenues, for undertakings exceeding the above percentage). This authors' right is inalienable, with the exception of its management by a CMO, and any contractual arrangement to the contrary is null and void.

3. Establishing responsibility of content-sharing service providers

It is recognized for the first time (as, until today, they had no relevant obligation) that providers of online content sharing/exchange (e.g. YouTube, Vimeo, Pinterest etc.) must obtain an authorization from the rightsholders of copyright and related rights for the protected content that is uploaded by users to their platforms and is accessible to the public.

Who is affected by the new provisions:

- Providers of online content sharing services (excluding, inter alia, non-profit online

encyclopedias, non-profit educational and scientific repositories, open-source software development and sharing platforms, electronic communications service providers, business to business online shopping and cloud computing services, cloud computing services that allow users to download content for their own use and online app stores).

- Users who upload content.
- Rightsholders of copyright and related rights.

Providers' Responsibility (obtaining authorization):

An obligation to obtain an authorization (mainly through a license agreement) from rightsholders of copyright and related rights is established. This license also covers acts of presentation and distribution to the public carried out by users who are not acting on a commercial basis or whose activity does not generate significant revenues.

Exceptions to providers' responsibility (in the absence of an authorization):

In order for the above providers to be exempted from their responsibility in the event of failure to obtain an authorization, they must cumulatively prove that they have made every effort to obtain the relevant license, ensure the unavailability of the material concerned and prevent its future unloading (a slightly different provision is introduced for the new providers, i.e. providers, who make their services available to the public in the EU for less than 3 years and have an annual turnover of less than 10,000,000 euros).

The exemption from responsibility should not apply to service providers the main purpose of which is to engage in or to facilitate copyright piracy.

Relations between providers-rightsholders-users:

The law provides for an obligation of the above providers to apply effective and fast complaint and remedy mechanism, in case of violation of protected rights, as well as for an obligation to inform the users of the terms of use of the concerned works/protected subject matters.

It is also provided that users may upload and make available content they create for the purpose of a) quoting, reviewing, criticizing and b) using for caricature, parody or pastiche.

4. Introduction of new exceptions and limitations

A number of exceptions and limitations are introduced to copyrights/related rights and to the sui generis right of the maker of a database.

Who is affected by the new provisions:

- Research organizations.
- Non-profit libraries or archives.
- Cultural heritage institutions.
- Educational institutions.
- Rightsholders of copyright and related rights.
- Makers of a database.

What exceptions are introduced:

a) Text and data mining: i) for the purposes of scientific research performed by research organizations and cultural heritage institutions on content to which they have lawful access, and ii) carried out by any person, on content to which they have lawful access, provided that such right has not been expressly reserved by the author or other rightsholder in an appropriate manner.

b) Use of works in digital teaching activities: by educational institutions, for the sole purpose of illustration for teaching or conducting examinations, by establishing a system of fair compensation.

c) Protection of cultural heritage: for the purpose of preserving works permanently held in the collections of cultural heritage institutions, through the creation of copies by these institutions.

d) Certain uses of works and other protected subject matters not commercially available: for non-commercial purposes, by cultural heritage institutions, without permission and without remuneration of the rightsholders. This exception concerns works permanently held in the collections of these institutions and shall apply provided that there are not sufficiently representative CMOs for the relevant categories of beneficiaries in the Greek territory, which may grant non-exclusive licenses for the use of such works.

e) Reproduction of an additional copy of a work, which is permanently in their collection, by non-profit libraries or archives: for the purpose of preserving the work or transferring the copy to another non-profit library or archive.

5. Establishment of collective licensing with an extended effect by CMOs

It is provided that the CMOs may, by declaration to users, represent rightsholders who have not authorized them to do so, i.e., grant collective licenses with extended validity.

Who is affected by the new provisions:

- Collective Management Organizations.
- Users of protected works/subject matters.
- Rightsholders of copyright and related rights.

Conditions of application:

- The Collective Management Organization must be sufficiently representative;
- the interests of the rightsholders should be protected and
- obtaining authorizations from rightsholders on an individual basis is typically onerous and impractical.

At the same time, it is provided that rightsholders who have not authorized the CMO may at any time exclude from the power of representation of the latter any of their works/other protected subject matters or certain uses of them.

6. Replacement of the absolute right to public lending with a right to an equitable remuneration

The absolute and exclusive right of the rightsholders to allow or prohibit the public lending of their works/protected subject matters is substituted by a system of equitable remuneration.

Who is affected by the new provisions:

- Institutions, in particular libraries, record and film libraries, open to the public and lawful holders of material carriers.
- Rightsholders of copyright and related rights.

7. Introduction of provisions to facilitate the clearance of rights for provision of ancillary online services across borders:


The new provisions facilitate the licensing of copyright and related rights in works and other protected subject matter contained in broadcasts of certain types of television and radio programmes.



Who is affected by the new provisions:

- Broadcasting organizations.
- Transmission service providers.
- Signal distributors.
- Rightsholders of copyright and related rights.

Content of relevant provisions:

- a) The broadcasting organizations who wish to retransmit any broadcasting programmes to the public of a Member State at the same time as the initial transmission of such programmes by another broadcaster in another Member State, without making any alterations or abridgements thereto, should, in order to obtain the corresponding licenses required from all categories of rightsholders of copyright and related rights (except broadcasters), enter into a compulsory agreement with the respective CMOs. This regulation applies to retransmissions taking place by any means, other than via cable, and to initial transmissions taking place by any means other than online.
- b) When broadcastings organizations transmit their programme-carrying signals by direct injection only to signal distributors without directly transmitting their programmes to the public, and the signal distributors send those programme-carrying signals to the public, then one single act (rather than two separate) of communication to the public is deemed to occur in which both the broadcasting organizations and the signal distributors participate with their respective contributions, for which they are licensed by the respective rightsholders.
- c) When the broadcasting organizations provide the public with an on-line access to specific categories of their programmes, namely, radio programmes or television news or current affairs programmes or programmes fully financed by the same, as producers, at a time simultaneous with or for a specified period of time after the transmission of such programmes by the same broadcasting organization, then the acts of presentation and communication to the public which they carry out shall be considered to take place exclusively in the Member State in which each broadcasting organization has its principal place of establishment.
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