



Authors' and Artists' Declaration

United for fair contracts!

The position of authors and artists needs to be strengthened by reinforcing the instruments of authors' rights contract law to ensure a fair balance of the interests of all the parties involved. The draft written by the German Federal Ministry of Justice and Consumer Protection in relation to contract law constitutes an excellent foundation for this.

The development of the media and the growing power of Internet companies require joint representation of all protagonists of the cultural and media industries, i.e. the authors, performing artists, and exploiters (such as publishers, producers, broadcasters), in order to ensure the future-proof reorganization of the creative process and the communication of works in the digital world.

However, this is possible only on the basis of mutual trust and respect, as well as a joint strategy negotiated on an equal footing.

Currently, negotiating positions show a strong asymmetry in favor of the exploiters:

- The newspaper industry frequently employs General Terms and Conditions that demand the authors to relinquish all rights in exchange for low fixed fees. It also often ignores the remuneration rules for freelance journalists (text and photo), thus circumventing the law.
- The German Publishers and Booksellers Association has evaded fair negotiations with authors and illustrators working for book publishers. Only a few publishers have been willing to draw up remuneration agreements for authors and translators. Not all authors find themselves in a strong negotiating position that allows them to enforce a temporary transfer of their rights of use. Many publishers, especially in the areas of scientific publishing, often demand a transfer of all rights for the full duration of the statutory copyright.
- Few agreements have been concluded in film and television. Some film producers and very few broadcasters have established remuneration rules or collective agreements but only after years of pressure or lawsuits. In particular, the major contractors ARD and ZDF often fend off demands for negotiations concerning remuneration agreements. To date, important distribution issues are still open, and the negotiations are not conducted on an equal footing.
- The issue of remuneration for extended use of works in media libraries (catch-up-services), which is relevant to many disciplines in the field of television and radio, is also still unresolved.
- In particular, in the field of media music, non-transparent accounting systems or unacceptable statements of account for the use of works such as in streaming services prevent appropriate remuneration. Furthermore, the remuneration of composers and musicians is often inadequate due to low buyout prices and declining royalties.

The reformed copyright contract law must provide final and satisfactory solutions in order to achieve a fair balance in the relationship between authors, performing artists, and exploiters.

To this end, the following principles must be enforced:

- Appropriate remuneration is the key requirement. It serves not only to ensure the livelihood of authors and performing artists but is a necessary requirement for planning new projects and thus for taking risks and releasing innovative forces, which are essential for the cultural and media industries.
- Any use of a work leads to added value. Authors and performing artists must receive their fair share, including for Internet uses. Fixed payments remain possible, providing adequate remuneration.
- Authors and artists should not be forced to transfer rights packages whose scope exceed the specific needs of the exploiters and make it likely that individual rights remain unused.
- Rights transfers must be temporary and recallable. Industry-specific solutions are useful and already provided for in the draft law.
- Transparent accounting must render any use traceable.
- Compensation agreements between exploiters and authors' rights organizations are the basis of individual agreements between authors and artists and users, i.e. the remuneration rules stipulate the minimum requirements. This renders the production of works predictable, especially of works with many involved parties (film, television, and game productions).
- This can only succeed if clear rules regarding the commencement and conclusion of negotiations, as well as binding arbitration, are defined.
- Organizations representing authors and performing artists must have the right to defend their members and carry out collective actions in order to enforce fair implementation of a contract in case of conflict.

Initiative Urheberrecht supports the draft bill in principle and has developed some essential amendments. It calls on the German Bundestag and the Federal Government to implement this draft bill quickly and in dialogue with all relevant parties.

The initiative is ready to discuss any unresolved issues with the parliament, the government, and the exploiters. It relies on the common sense and willingness of all parties to reach a consensus.

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The initiative is comprised of more than 35 organizations and unions and represents the interests of about 140,000 authors and performing artists.

www.urheber.info

If you are an author or artist (or would like to offer support) and would like to add your signature, please use the following link:

<http://urheber.info/erklaerung>

<http://urheber.info/erklaerung/unterzeichnen>