

Übersetzung durch das Bundesministerium der Justiz und für Verbraucherschutz in
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Act on the Copyright Liability of Online Content Sharing Service Providers*

(Urheberrechts-Diensteanbieter-Gesetz – UrhDaG)

Copyright Service Providers Act of 31 May 2021 (Federal Law Gazette I, p. 1204, 1215), as
last amended by Article 22 of the Act of 6 May 2024 (Federal Law Gazette 2024 I No. 149)

Footnote *: Section 19 (3) of this Act notified in accordance with Directive (EU) 2015/1535
of the European Parliament and of the Council of 9 September 2015 laying down a
procedure for the provision of information in the field of technical regulations and of rules on
Information Society services (OJ L 241, 17.9.2015, p. 1).

Part 1 General provisions

Section 1

Communication to the public; liability of the service provider

(1) A service provider (section 2) performs an act of communication to the public if it gives
the public access to copyright-protected works uploaded by its users.

(2) If the service provider fulfils its obligations under section 4 and sections 7 to 11 in
accordance with the high standards which are customary in the industry, taking into account
the principle of proportionality, it is not liable under copyright law for an act of communication
to the public. Account is, in particular, to be taken of the following:

1. the nature, audience and scope of the service,
2. the nature of the works uploaded by users of the service,
3. the availability of appropriate means of fulfilling the obligations, and
4. the costs incurred by the service provider for the means under no. 3.

(3) The service provider cannot rely on Article 6 (1) of Regulation (EU) 2022/2065 of the
European Parliament and of the Council of 19 October 2022 on a Single Market For Digital
Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022,
p. 1; L 310, 1.12.2022, p. 17).

(4) A service provider whose main purpose is to participate in or facilitate copyright
infringements may not rely on subsection (2).

Section 2

Service providers

(1) 'Service providers' within the meaning of this Act are the providers of services within the meaning of Article 1 (1) (b) of Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on information society services (OJ L 241, 17.9.2015, p. 1) which

1. have as their main purpose, exclusively or at least in part, the storage and making available to the public of a large amount of copyright-protected content uploaded by third parties,
2. organise content within the meaning of no. 1,
3. advertise content within the meaning of no. 1 for the purpose of making a profit, and
4. compete with online content services for the same target groups.

(2) 'Start-up service providers' are service providers with an annual turnover within the European Union of no more than 10 million euros whose services have been available to the public in the European Union for less than three years.

(3) 'Small service providers' are service providers with an annual turnover within the European Union of no more than 1 million euros.

(4) The turnover of start-up service providers and small service providers is calculated in accordance with the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises (OJ L 124, 20.5.2003, p. 36). In each case, turnover in the previous calendar year is decisive.

Section 3

Services not covered

In particular, this Act does not apply to

1. non-profit online encyclopaedias,
2. non-profit educational or scientific repositories,
3. platforms for the development and distribution of open source software,
4. the providers of electronic communications services within the meaning of Article 2 no. 4 of Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 on the European Electronic Communications Code (OJ L 321, 17.12.2018, p. 36),
5. online marketplaces,
6. business-to-business cloud services, and
7. cloud services which allow their users to upload content for their own use.

Part 2

Authorised uses

Section 4

Obligation to acquire contractual rights of use; author's entitlement to direct remuneration

(1) Service providers are obliged to undertake their best efforts to acquire the contractual rights of use for the communication to the public of copyright-protected works. Service providers fulfil this obligation insofar as they acquire rights of use which are

1. offered to them,

2. are available through representative rightholders which are known to the service providers, or
3. can be acquired through collecting societies or dependent rights management entities established in Germany.

(2) Rights of use under subsection (1) sentence 2 must

1. apply to content which, by its nature, is manifestly communicated to the public by the service provider in more than minor quantities,
2. cover a considerable repertoire of works and rightholders,
3. cover the territorial scope of this Act, and
4. allow for use under reasonable terms and conditions.

(3) If the author has granted a third party the right of communication to the public of a work, the service provider must nevertheless pay the author appropriate remuneration for the contractually authorised communication to the public of the work. Sentence 1 does not apply if the third party is a collecting society or the author engages the third party as a digital distributor.

(4) The author may not waive the entitlement to direct remuneration under subsection (3) and may only assign it in advance to a collecting society. The entitlement may only be asserted by a collecting society.

Section 5

Uses authorised by law; remuneration of the author

(1) The communication to the public of copyright-protected works and parts of works by the user of a service provider is authorised for the following purposes:

1. quotations in accordance with section 51 of the Copyright Act (*Urheberrechtsgesetz*),
2. caricatures, parodies and pastiches in accordance with section 51a of the Copyright Act and
3. other cases of communication to the public authorised by law and the reproduction required for such purpose in accordance with Part 1 section 6 of the Copyright Act.

(2) Service providers must pay the author appropriate remuneration for the communication to the public pursuant to subsection (1) no. 2. The entitlement to remuneration is not waivable and can only be assigned in advance to a collecting society. It can only be asserted by a collecting society. Section 63a (2) of the Copyright Act and section 27a of the Collecting Societies Act (*Verwertungsgesellschaftengesetz*) apply.

(3) Service providers must, in their general terms and conditions, draw the user's attention to the uses authorised by law referred to in subsection (1).

Section 6

Extension of authorisations

(1) If the service provider is authorised to communicate a work to the public, this authorisation also extends to the user, provided that the user is not acting on a commercial basis or does not generate a substantial income.

(2) If the user is authorised to communicate a work to the public via a service provider, this authorisation also extends to the service provider.

Part 3

Unauthorised uses

Section 7

Qualified blocking

(1) Service providers are obliged, in accordance with section 1 (2), to ensure, as far as possible, by blocking or removal (blocking) that a work is not communicated to the public and will in future not be available for this purpose, as soon as the rightholder so requests and provides the information required for such purpose.

(2) Measures pursuant to subsection (1) may not result in the unavailability of content uploaded by users if the use is authorised by law or does not infringe copyright. Sections 9 to 11 apply to the use of automated procedures. Sentence 2 does not apply to uses of cinematographic works or moving images until the completion of their first communication to the public, in particular during the simultaneous transmission of sporting events, insofar as the rightholder requests this from the service provider and provides the necessary information for this purpose.

(3) Service providers must immediately inform the user of the blocking of the content uploaded by the user and must advise the user of the right to lodge a complaint in accordance with section 14.

(4) Start-up service providers (section 2 (2)) are not required to comply with subsection (1) as long as the average monthly number of unique visitors to the service's websites does not exceed five million.

(5) It is rebuttably presumed that small service providers (section 2 (3)) are not obliged under subsection (1) with a view to the principle of proportionality.

Section 8 **Simple blocking**

(1) Service providers are obliged, in accordance with section 1 (2), to terminate the communication to the public of a work by blocking as soon as the rightholder so requests and gives a duly substantiated notice of the unauthorised communication to the public of the work.

(2) Section 7 (2) sentence 1 and (3) applies accordingly.

(3) Service providers are only obliged to block future unauthorised uses of the work in accordance with section 7 after the rightholder has provided the information required for such purpose.

Part 4 **Uses presumably authorised by law**

Section 9 **Communication to the public of uses presumably authorised by law**

(1) In order to avoid disproportionate blocking by automated procedures, uses presumably authorised by law must be communicated to the public up until the conclusion of a complaints procedure (section 14).

(2) It is rebuttably presumed in respect of user-generated content which

1. contains less than half of a work or several works by third parties,
2. combines the part or parts of a work referred to in no. 1 with other content, and
3. uses the works of third parties only to a minor extent (section 10) or is flagged as legally authorised (section 11),

that its use is authorised by law in accordance with section 5 (uses presumably authorised by law). Images may be used in their entirety in accordance with sections 10 and 11.

(3) Service providers must immediately inform the rightholder of the communication to the public and must advise the rightholder of the right to lodge a complaint in accordance with section 14 in order to have the presumption under subsection (2) reviewed.

Section 10 **Minor uses**

The following uses of works are deemed to be minor within the meaning of section 9 (2) sentence 1 no. 3, provided that they do not serve commercial purposes or only serve to generate insignificant income:

1. uses of up to 15 seconds in each case of a cinematographic work or moving picture,
2. uses of up to 15 seconds in each case of an audio track,
3. uses of up to 160 characters in each case of a text, and
4. uses of up to 125 kilobytes in each case of a photographic work, photograph or graphic.

Section 11

Flagging of uses authorised by law

(1) If user-generated content is to be blocked automatically when being uploaded and does not constitute minor use as per section 10, service providers are obliged

1. to inform the user about the rightholder's blocking request,
2. to also inform the user when providing the information pursuant to no. 1 of the need to have legal permission pursuant to section 5 for the communication to the public, and
3. to enable the user to flag the use as authorised by law pursuant to section 5.

(2) If user-generated content is to be blocked automatically only after it has already been uploaded, subsection (1) applies, with the proviso that the content is deemed to be a use presumably authorised by law for 48 hours even without any flagging pursuant to subsection (1) no. 3.

Section 12

Remuneration by service providers; liability

(1) Service providers must pay the author appropriate remuneration for the communication to the public of uses presumably authorised by law under sections 9 to 11. Section 5 (2) sentences 2 to 4 apply accordingly.

(2) Service providers are not liable under copyright law for the communication to the public of uses presumably authorised by law under sections 9 to 11 until the conclusion of a complaints procedure, at the latest until the expiry of the time limit for a decision on the complaint (section 14 (3)). After the decision on the complaint has been given, service providers are only liable for damages under copyright law if they have culpably violated the obligations under section 14 as regards the carrying out of the complaints procedure; claims for injunctive relief and removal remain unaffected.

(3) In the case of minor use (section 10), the user is not liable under copyright law for the communication to the public of uses presumably authorised by law until the conclusion of a complaints procedure under section 14.

Part 5

Legal remedies

Section 13

Legal remedies; protection against distortion; access to the courts

(1) Participation in complaints procedures under sections 14 and 15 is voluntary for users and rightholders.

(2) Participation in alternative dispute resolution pursuant to sections 16 and 17 is voluntary for users, rightholders and service providers.

(3) The protection of authors against distortion of their work under section 14 of the Copyright Act remains unaffected. To that end, the author may also demand simple blocking in accordance with section 8 within the scope of application of sections 9 to 11.

(4) The right to appeal to the courts remains unaffected.

Section 14

Internal complaints procedure

(1) Service providers must make available to users and rightholders an effective, free and expeditious complaints procedure in respect of the blocking and the communication to the public of protected works.

(2) Complaints must be substantiated.

(3) Service providers are obliged to immediately

1. notify the complaint to all the parties involved,
2. give all the parties involved the opportunity to comment, and
3. decide on the complaint, at the latest within one week after its submission.

(4) If, following an assessment by a natural person, a trustworthy rightholder declares that the presumption under section 9 (2) is to be rebutted and that the continued communication to the public substantially impairs the economic exploitation of the work, the service provider is, in derogation of section 9 (1), obliged to immediately block the work up until the conclusion of the complaints procedure.

(5) Decisions on complaints must be made by impartial natural persons.

Section 15

External complaints body

(1) Service providers may use a recognised external complaints body to fulfil their obligations under section 14.

(2) The decision on the recognition of an external complaints body is taken by the Federal Office of Justice in agreement with the German Patent and Trade Mark Office. The decision may include additional stipulations. Any time limit set is, as a rule, not to be less than five years.

(3) An external complaints body is to be recognised if

1. the independence and expertise of its assessors is guaranteed,
2. adequate resources and expeditious assessments within seven days are ensured,
3. rules of procedure are in place which
 - a) regulate the scope and conduct of the assessment,
 - b) regulate the affiliated service providers' obligations to submit documents and
 - c) allow for the option of decisions being reviewed on application by the rightholder and on application by the user,
4. it is operated by several service providers or institutions which ensure it has adequate resources and
5. it is open to other service providers or institutions joining.

(4) The recognised external complaints body is required to immediately inform the Federal Office of Justice if there are any changes to the circumstances which are relevant to its recognition or any changes to other information which was provided in the application for recognition. Where conditions for recognition are subsequently no longer met, recognition may be revoked in whole or in part or additional stipulations made.

(5) The recognised external complaints body is required, by 31 July of each year, to publish on its website an activity report on the previous calendar year and to forward it to the Federal Office of Justice.

Section 16

Alternative dispute resolution by private arbitration bodies

(1) Rightholders and users may call upon a recognised private law arbitration body for the alternative dispute resolution of disputes regarding the blocking and the communication to the public of a protected work by a service provider and regarding rights to information (section 19). Section 15 (2) sentences 1 and 2 apply accordingly to the decision on recognition.

(2) A private law arbitration body is to be recognised if

1. the body responsible for it is a legal entity
 - a) whose registered office is in a Member State of the European Union or in another State party to the Agreement on the European Economic Area to which Directive 2010/13/EU applies,
 - b) which is established on a permanent basis and
 - c) whose financing is secured,
2. the independence, impartiality and expertise of those persons who are to be involved in arbitration is guaranteed,
3. adequate resources and the expeditious conduct of arbitration procedures are ensured,
4. it has rules of arbitration in place which regulate details of the arbitration procedure and its area of competence and which enable a simple, cost-effective, non-binding and fair arbitration procedure in which the service provider, the rightholder and the user can participate,
5. it is ensured that the general public is kept permanently informed about how the arbitration body can be contacted, its area of competence and the course of the arbitration procedure, including the rules of arbitration.

Section 15 (4) and (5) applies accordingly.

(3) Rightholders and users may apply to an arbitration body within its area of competence if

1. an internal complaints procedure in accordance with section 14 has previously been conducted or a review of a decision within the meaning of section 15 (3) no. 3 has been conducted and
2. the service provider takes part in the arbitration conducted by this arbitration body.

Where the service provider takes part in the arbitration, it may inform the arbitration body about that content which is the subject of the complaint, information regarding the date on which the content was shared or made available, about the extent of dissemination and the content which is recognisably associated with that content which is the subject of the complaint, insofar as this is necessary for the arbitration procedure. Where the arbitration body is applied to by the rightholder, the user's contact details may also be transmitted. Where the arbitration body is applied to by the user, the rightholder's contact details may also be transmitted. The arbitration body is authorised to process the relevant personal data insofar as this is necessary for the arbitration procedure; it is, however, not permissible to disclose the rightholder's and user's personal data.

(4) The Consumer Dispute Resolution Act (*Verbraucherstreitbeilegungsgesetz*) of 19 February 2016 (Federal Law Gazette I, p. 254, 1039), as last amended by Article 16 of the Act of 8 October 2023 (Federal Law Gazette 2023 I Nr. 272), does not apply.

Section 17

Alternative dispute resolution by an official arbitration body

- (1) The Federal Office of Justice is to establish an official arbitration body in agreement with the German Patent and Trade Mark Office.
- (2) The official arbitration body is only competent if there is no private law arbitration body in accordance with section 16. Section 16 (1) sentence 1, (2) sentence 1 nos. 2 to 5, (3) and (4) applies accordingly.
- (3) The official arbitration body is required, by 31 July of each year, to publish on its website an activity report on the previous calendar year.
- (4) The official arbitration body may charge fees for conducting the arbitration procedure. The fees are to be quoted in its rules of arbitration.

Part 6 Final provisions

Section 18 Measures against abuse

- (1) If an alleged rightholder repeatedly requests that the service provider block a work belonging to a third party as the rightholder's own work or a work in the public domain, the service provider must exclude the alleged rightholder from the procedures under sections 7 and 8 for an appropriate period of time.
- (2) If an alleged rightholder intentionally or negligently requests that the service provider block either a work belonging to a third party or a work in the public domain as the rightholder's own work, then said rightholder is obliged to compensate the service provider and the user concerned for the resulting damage.
- (3) If a rightholder repeatedly and wrongly demands
 1. the immediate blocking of uses presumably authorised by law during the complaints procedure referred to in section 14 (4), or
 2. simple blocking in accordance with section 8 on account of a distortion of his or her work (section 14 of the Copyright Act),

then the rightholder must be excluded from the relevant procedure for an appropriate period of time.

- (4) After an abusive blocking request in respect of works in the public domain or works whose use is authorised by anyone free of charge, service providers must ensure, to the best of their ability and in accordance with section 1 (2), that these works are not blocked again.
- (5) If a user repeatedly and wrongly flags a use as authorised by law, service providers must exclude the user, for an appropriate period of time, from the possibility of flagging authorised uses.
- (6) If a service provider repeatedly and wrongly blocks authorised uses, a registered association whose purpose is to promote the interests of users on a non-commercial and not merely temporary basis may claim injunctive relief against the service provider.

Section 19 Rights to information

- (1) Rightholders may demand information from service providers regarding the use of their repertoire authorised by contract pursuant to section 4.
- (2) Rightholders may request appropriate information from service providers regarding the mode of operation of the procedures for blocking unauthorised uses of their repertoire pursuant to sections 7 and 8.
- (3) (repealed)

Section 20

Person authorised to receive service in the Federal Republic of Germany

Section 5 of the Network Enforcement Act (*Netzwerkdurchsetzungsgesetz*) applies accordingly to the obligation incumbent on a service provider for which no other Member

State is or is deemed the home state under section 2 of the Digital Services Act (*Digitale-Dienste-Gesetz*), namely to appoint a person authorised to receive service in the Federal Republic of Germany.

Section 21

Application to related rights

(1) This Act applies accordingly to related rights within the meaning of the Copyright Act and to their rightholders.

(2) Only photographers and performers are entitled to direct remuneration pursuant to section 4.

Section 22

Mandatory law

The provisions of this Act may not be derogated from by contract.