July 2025

Newsletter No.

# 31

# Swiss IP News

We provide you with updates on new decisions, the relevant legislative process and other trends in the fields of intellectual property and unfair competition law from a Swiss perspective.

walderwyss attorneys at law

# Remuneration for Journalistic Content on Online Platforms: The Federal Council's Dispatch on Amending the Copyright Act

By Sylvia Anthamatten
MLaw, LL.M., Attorney at Law
Counsel
Telephone +41 58 658 55 90
sylvia.anthamatten@walderwyss.com

With its proposed amendment to the Federal Act on Copyright and Related Rights (CopA), the Swiss Federal Council is responding to the economic imbalance faced by the media sector in the digital space. The introduction of a related right for media publishers aims to ensure fair remuneration for journalistic content used on large online platforms – especially in the form of short text or image previews. Already in 2021, the Federal Council recognised that compensating the work of media companies is fundamentally justified and initiated the draft of a preliminary proposal. In June 2025, the Federal Council adopted the official dispatch ("Botschaft"/"Message") on the revision of the CopA and submitted it to Parliament.

## Background

The public consultation on the preliminary draft of the revised CopA (revCopA) concluded in September 2023. While the general approach – an addition to copyright law in favour of media companies – was largely acknowledged, it also attracted criticism on several grounds. One point of contention was the so-called "compensation argument", which suggests that platforms should provide financial compensation for using journalistic content. Critics argued that media companies already benefit from these platforms, such as through increased, monetisable traffic to their own websites. Concerns were also raised that platforms could respond to a new remuneration obligation by deliberately removing journalistic content from search results ("de-listing"), which could have negative consequences for the freedom of information.

Parliamentary deliberations are expected to begin in autumn 2025. The new provisions could enter into force as early as 2026.

## The Proposal

At the heart of the revision is the introduction of a statutory remuneration right for Swiss media companies when their journalistic publications – especially snippets (short text previews) and thumbnails (image previews) – are used and made publicly accessible by large online services. Such uses are not consistently covered by existing copyright law, as they often involve fragments or non-original content, which typically fall outside the scope of copyright protection. The new provision is therefore intended to close this gap and ensure fair compensation for editorial efforts.

Article 37a revCopA stipulates that providers of online services whose platforms reach an average of at least ten per cent of the Swiss population annually must pay remuneration for making journalistic publications accessible. The use of such content remains permitted, but a financial compensation obligation is introduced. To qualify for remuneration, the media company must be based in Switzerland

and adhere to professional journalistic standards. According to the dispatch, this requirement would exclude platforms such as Wikipedia and Wikinews from the group of beneficiaries.

Article 37b revCopA supplements this with a mandatory remuneration right for journalists. Journalists must be appropriately remunerated, regardless of any contractual arrangements. This entitlement is non-transferable and non-waivable, ensuring that contributors are protected from contractual pressure to waive or assign their rights. Remuneration is intended to be distributed via an approved collecting society.

Article 49a revCopA governs how the revenues are distributed. They are not allocated according to reach or clicks but based on editorial effort and the publication's contribution to public information. This approach seeks to prevent the preferential treatment of superficial or automatically generated content (e.g. AI-generated articles). Such content often achieves wide reach because it is optimised for keywords, trends or emotional reactions – rather than for careful research or relevance. The proposed model is therefore designed to incentivize sound reporting.

Rights enforcement and distribution is proposed to take place exclusively through approved collective societies. Tariffs are subject to approval by the Federal Arbitration Commission for the Exploitation of Copyrights and Related Rights.

### Comparison with Foreign Models

The Swiss approach differs significantly from foreign models. In the European Union, corresponding rights are structured as exclusive rights, leading to individual licensing negotiations between publishers and online platforms. In practice, this has enabled major publishing houses to secure preferential agreements, while smaller media providers were often compelled to grant free licenses or found themselves excluded entirely. By contrast, Switzerland intends to pursue a mandatory collective licensing model, whereby all claims are to be asserted and distributed through a collective society. This should ensure that even small and medium-sized media companies with limited negotiation power can participate.

Furthermore, unlike foreign models, the Swiss approach dœs not stipulate a minimum length for snippets. This prevents providers from circumventing the remuneration obligation by reducing content to the bare minimum.

### Assessment

The reform establishes a balanced foundation for a correction in the digital media ecosystem. The clear departure from the EU model seems convincing: while the use of journalistic content remains permitted, remuneration is handled collectively and transparently.

Nevertheless, risks remain. Platforms may reduce or altogether stop displaying snippets to avoid payments. It is also unclear how high the tariffs will be and how effectively revenues will be distributed. Moreover, large online platforms will likely need to establish new internal processes to monitor the use of journalistic content, interface with collective management organisations, and ensure regulatory compliance – all of which may involve administrative and technical complexity.

For Swiss media companies, the law offers a new and potentially significant revenue stream. However, they must continue to meet the statutory eligibility criteria, in particular compliance with recognised journalistic standards – a requirement that may, in practice, give rise to legal or evidentiary uncertainties.