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**English Translation of the DMIN [www.dmin.it](http://www.dmin.it) proposal to modify Italian Copyright Law - Law 22 April 1941, n. 633 –**

**Art.1**

Title II ter of the Law 22 April 1941, n. 633 is substituted by the following:

**TITLE II - Ter**

*Information about rights, access to digital content provided of technical measures of management and protection and interoperability duties.*

**Art.102 quater**

Every time in the present title are utilized the following expressions, they will have the following significant:

- 1) *Interoperable technical management and protection measures*: techniques and components destined to manage and, eventually, to protect, according to the specific interoperability techniques, the use of works by consumers in conformity with the agreements with rights holders;
- 2) *Proprietary technical management and protection measures*: techniques and components not based on specific techniques of interoperability;
- 3) *Specific techniques of interoperability*: specifics of technical management and protection measures determined according with the art.2 of the present act;
- 4) *Interoperable devices*: devices of creation, distribution, elaboration and reproduction of digital contents realized according to the specific techniques of interoperability;
- 5) *Proprietary devices*: devices of creation, distribution, elaboration and reproduction of digital contents realized according to specifics different from the specific techniques of interoperability.

**Art.102 quinquies**

1. Copyright holders, holders of connected rights and of the right enounced in the art.102 bis c.3, can put on the protected works and materials technical management and protection measures that include all the techniques, devices and components destined to manage and eventually to protect the use of works by consumers, in conformity with the agreements with rights holders;

2. In case a rights' holder decides to communicate, distribute and release works using proprietary technical management and protection measures, he must effect, at the same time, a communication, distribution and propagation on the same channel utilizing interoperable technical management and protection measures without any discriminatory economic conditions towards his own proprietary offer.

3. The application of measures regarding computer program at Cape IV Section VI of Title I remain save.

#### Art. 102 sexies

1. The Specific techniques of interoperability, the modality of their updating and the criteria to verify the conformity of a specific technical measure of management to the Specific techniques of interoperability are established with a Deliberation approved by the Communication Authority (Autorità per le Garanzie nelle Comunicazioni) – herein following “The Authority”.
2. The specific techniques of interoperability must comply with openness criteria that render possible the public control and the exercise by the Authority of the power enounced in the preceding paragraph, in particular the possibility to update and extend The specific techniques of interoperability.
3. The specific techniques of interoperability are established by a Regulation approved by the Authority within 120 days from the entry into force of the present act.
4. The Authority, “ex officio” or at request of a consumers association, establishes measures and terms in which the adoption of interoperable technical management and protection measures cannot inhibit the exercise of the free utilizations enounced in the Cape V, Title I, in relation to the type of the work affected by interoperable technical management and protection measures, to the different ways of publication and the possibilities offered by the available technologies.

#### Art.102 septies

1. Copyright holders, holders of connected rights and of the right enounced in art.102 bis and all those that adopt technical management and protection measures must inform the legitimate works’ users at any title about terms, modality and utilization’s limits of such works, derived by the presence of technical management and protection measures themselves, according to what is provided in Cape I, Title II of Decree. 206 /2005. (Consumers Code)
2. It is forbidden the distribution and the propagation of the contents managed and protected by technical management and protection measures in absence of the information enounced in paragraph 1.
3. In case of violations of the measures enounced in the preceding paragraphs as well as in art.102- sexies, consumers associations may ask to the Judicial Authority of the place where the work has been made available to the public to oblige who commercializes it the further distribution respecting the enounced measures.

#### Art.102 octies

1. Electronic information about the rights can be inserted by the copyright holders, the holders of connected rights and of the right enounced in the art.102- bis par 3, on the protected works or materials or can be made visible in the communications to the public.
2. Interoperable technical management and protection measures can identify the work or the material managed and/or protected, the author and any other rights’ holder, provide electronically information about the rights and include indications about terms or using conditions of the work or the materials, any number or code that represent the same information or any other identification’s elements, eventually the modality of protection of the information and any other function connected to the rights’ management and protection.

3. Interoperable technical management and protection measures cannot imply, in any case, a treatment of consumer's personal data in absence of his authorization.

## **Art.2**

1. Within the Authority it is instituted a Committee of control for the interoperable technical management and protection measures (herein following "The Committee of control").
2. The Committee of control is constituted by the representative of authors, producers, editors, service suppliers, and consumers.
3. Within 30 days from the entry into force of the present act the Board of the Authority determines the composition of the Committee of control, identifying the organizations that can express the components.
4. Within 60 days from the entry into force of the present act the Board of the Authority approves a Regulation to discipline the functioning of the Committee of control and for the exercise by the Committee of the powers conferred by the present act.
5. The tasks of the Committee of control are:
  - To determine the modalities that assure an appropriate level of economic sustainability for the governance of the specific techniques of interoperability;
  - To administrate the verification procedure of conformity of the interoperable devices and contents to the specific techniques of interoperability;
  - To deliver for the Board of the Authority proposals as well as technical and economic opinions useful for the deliberations that the Authority is called to issue;
  - To settle disputes between who adopt interoperable technical management and protection measures and work's users at any title, included their association;
  - In general, to take care of the ordinary management of the specific techniques of interoperability;
  - To propose actions aimed at correct, maintain technically competitive or extend the specific techniques of interoperability;
  - To manage the process of correction, maintaining the technical competitiveness and the extension of the specific techniques of interoperability;
  - To periodically evaluate the adequateness of the use of interoperable technical management and protection measures to the social and cultural needs of the Country and, eventually, to propose improving or correcting actions.