

Intellectual Property Briefing: Special Edition

An Overview of Recent Developments in Intellectual Property Legislation

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A. Introduction

1. Newly introduced Law 5103/2024¹ (the **Law**) makes amendments to copyright law and other sectors related to it, such as intangible cultural heritage.
2. The Law was passed following intensive consultations between artists, authors, collective management organisations, production companies and representatives of the hospitality and leisure industries.
3. Many European Union member states such as France, Spain and Portugal are increasing the performance of musical works in their national language mainly for radio broadcasting. Following this trend, the new provisions of the Law² address strengthening the protection of intangible cultural heritage, including the need to disseminate the Greek language, Greek-

¹ 'Measures for the preservation and promotion of intangible cultural heritage, the protection and enhancement of Greek-language song and new recordings as well as the protection and dissemination of the Greek language, in the context of the preservation and promotion of intangible cultural heritage - Regulations for the modernization of the commercial policy of the Hellenic Organization of Cultural Resources Development (H.O.C.RE.D.) and other provisions of the Ministry of Culture and the Ministry of Education, Religious Affairs and Sports'.

² Part A (in particular chapter C).

language Songs³ and New Recordings⁴ as an independent pillar of the Ministry of Culture's policy.

B. Key Points

1. The Law is structured in four parts, with Part A being the most interesting and controversial. In brief, the main changes and rules introduced by Part A include provisions related to:
 - a. the appointment of the Directorate of Modern Cultural Heritage of the General Directorate of Antiquities and Cultural Heritage as competent for:
 - i. the maintenance and continuous updating of the National Inventory of the Intangible Cultural Heritage of Greece;
 - ii. the establishment of the Council of Intangible Cultural Heritage; and
 - iii. the establishment of the Commission for the Promotion and Safeguarding of Intangible Cultural Heritage;
 - b. the adoption of incentives for increasing the broadcasting of informative and non-informative Greek-language Songs on radio stations included in the relevant register of the National Council for Radio and Television (NCRTV) (**Radio Stations**). More specifically, Radio Stations which:
 - i. broadcast a partially foreign language music repertoire will be allowed a 5% increase in the maximum time permitted for advertising messages if they increase the transmission of Greek-language songs by 15%;
 - ii. broadcast 95% or more foreign-language music will be allowed an increase in the maximum time permitted for advertising messages if they increase the transmission of Greek-language Songs, based on the table below:

% of Greek-language Songs to the Total Music Broadcasted	% Increase in Time Permitted for Advertising Messages
15.1% to 25,0%	10%
25.1% to 40,0%	20%
40.1% and above	30%

³ 'Greek-language Song' is defined as (a) a work composed of music and lyrics, provided that at least half of its duration is in the Greek language; (b) an orchestral musical performance of the work referred to in (a) above; and (c) musical works without lyrics, recorded in the Greek territory.

⁴ 'New Recordings' are defined as recordings of Greek-language Songs incorporating new musical works whose first release or communication or distribution (either on demand or not) to the public took place up to one (1) year before their radio broadcast.

- iii. broadcast 95% or more Greek-language music will be allowed an increase in the maximum time allowed for advertising messages, if they increase the transmission rates of New Recordings at peak listening hours, ie between 06:00 and 22:30, based on the table below:

% of Broadcasting New Recordings to the Total Music Broadcasted	% Increase in Time Permitted for Advertising Messages
10%	10%
15%	20%
15.1% and above	30%

- c. the introduction of an obligatory minimum percentage of 40% Greek-language Songs to be performed publicly in certain public areas of hotels and complex tourist accommodation, shopping centres, casinos and public transport, as well as in passenger waiting areas at airports and ports;
- d. the possibility of audiovisual productions, whether in television or cinema and regardless of their content (fiction, creative documentary or animation), to be favored by and eligible for Greek public sector funding schemes or financial instruments in the event that their musical soundtrack incorporates more than the percentage that will be set by a joint Ministerial Decision of:
- i. a Greek-language Song; or
 - ii. an orchestral musical performance of a Greek-language Song; or
 - iii. musical works with or without lyrics in an EU member state language recorded in the Greek territory⁵;
- e. setting up of an electronic database of Greek-language Songs, orchestral music performances of Greek-language Songs and orchestral music of Greek authors and recordings recorded in the Greek territory, as well as a web application for access to the database; and
- f. setting out the procedure for control and imposition of administrative penalties against the persons/ companies affected by the Law who are listed below for breach of their obligations relating to public performances under iii.

⁵ The initial wording of this provision triggered intense criticism, as it established an 'exorbitant' obligation on Greek audiovisual productions and cinematographic films financed by the Greek public sector to incorporate a minimum 70% of Greek-language Songs, or an orchestral musical performance of a Greek-language Song, in their total musical soundtrack.

C. Who will the Law Affect?

1. The main categories are:
 - a. authors, performers and producers of Greek-language Songs and New Recordings;
 - b. companies and/or persons owning and/or operating Radio Stations, producers and authors of audiovisual works (cinematographic films and television series);
 - c. companies and/or persons owning and/or operating hotels and complex tourist accommodation, shopping centres, casinos, public transport, airport lounges and ports;
 - d. the Ministry of Culture.

D. Conclusion

1. The Law, in particular the provisions of Part A, is expected to have a significant impact on the promotion and preservation of Greek musical heritage and the support of authors and holders of related rights.
2. Concerns around the Law are that the obligations imposed by it could stifle the creativity of authors by favoring quantity over quality in their audiovisual productions in order to achieve the eligibility conditions of the respective funding regimes. It could also limit the freedom of Radio Stations to curate their playlists in order to achieve the rates imposed and increase their advertising revenues.
3. The accommodation and entertainment industries may face challenges in meeting the imposed requirements, especially if their audience preferences are better served by non-Greek music.
4. It remains to be seen how the Law will be practically implemented, as well as the consequences of the affected companies' non-compliance.

**KEY CONTACTS**

Lambros Belessis
Partner
lbelessis@bernitsaslaw.com



Marialena Mavrikaki
Associate
mmavrikaki@bernitsaslaw.com

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