

Amendment to the Federal Copyright Law regarding the Secondary Liability of Internet Service Providers

On October 7, 2026, the Chamber of Deputies approved, with 325 votes in favor and 114 against, an amendment to the Federal Copyright Law (LFDA) arising from a bill submitted by the President of Mexico. The bill was sent to the Senate for discussion and, if applicable, approval. If approved by both Chambers, the amendment would enter into force 180 calendar days following its publication in the Official Gazette of the Federation.

The amendment builds upon the regime incorporated into the LFDA in 2020 upon the entry into force of the United States-Mexico-Canada Agreement (USMCA). Since then, the law has provided for the mechanism known as "notice and takedown," under which platforms are released from liability for their users' content when they expeditiously remove content identified as infringing by the rights holder or by an authority; the user, in turn, may request the restoration of their content through a "counter-notice." In 2024, the Supreme Court of Justice of the Nation upheld the validity of this mechanism.

On that basis, the amendment modifies the conditions under which providers retain the benefit of non-liability (known as the "safe harbor") and defines the cases in which they are liable for their users' infringements. The main changes are as follows:

- 1. New condition for internet access providers:** Currently, internet access providers (those that transmit or provide the connection) retain the "safe harbor" by meeting two conditions: refraining from selecting the transmitted content and respecting standard technological protection measures.

Under the amendment, they must also have a policy for terminating service to users who repeatedly infringe copyright, permanently published on their website, incorporated into their terms and conditions, and with minimum user notification mechanisms.

Until now, a similar obligation applied only to online service providers (such as hosting platforms or search engines) with respect to account termination.

- 2. Secondary liability of providers:** Currently, the law provides that failure to meet the "safe harbor" conditions does not, in and of itself, give rise to liability for the provider.

The amendment defines precisely when such liability does arise: a provider that fails to meet those conditions will be liable for infringements committed by its users when, in addition, it (i) knowingly contributes to, induces, or causes the infringing conduct, or (ii) has the ability to control the user's conduct and obtains a financial benefit directly attributable to the infringement.

This rule applies to all internet service providers, including access providers.

- 3. Administrative sanctions:** Until now, the specific fines for intermediaries were limited to cases such as failing to remove content following a notice or failing to provide information to the authority.

Under the amendment, a provider that falls within the secondary liability scenarios will be liable for the same trade-related infringements (*infracciones en materia de comercio*) committed by the user and may be sanctioned by the Mexican Institute of Industrial Property (IMPI) with fines ranging from 500 to 40,000 UMA, depending on the conduct involved, plus an additional fine of 100 to 500 UMA if the infringement persists.

- 4. Adaptation period:** The amendment would enter into force 180 calendar days following its publication in the Official Gazette of the Federation. This period would allow providers to review and adjust their internal policies, terms and conditions, and operating processes.

The amendment has sparked public debate. Various civil society organizations and opposition legislators have warned that the new liabilities and sanctions could encourage the monitoring of users and the preventive removal of content; it has even been colloquially referred to as the "digital gag law" ("ley mordaza digital"). For their part, the amendment's proponents argue that its purpose is to protect authors and artists, combat digital piracy, and comply with USMCA commitments.

The Senate must discuss and vote on the amendment. If approved without changes, it will be sent to the Executive Branch for publication in the Official Gazette of the Federation; if modified, it must be returned to the Chamber of Deputies.

At Von Wobeser y Sierra, S.C., we remain at your disposal to address any questions or inquiries regarding this amendment or, more generally, intellectual property matters.

FOR MORE INFORMATION, PLEASE CONTACT

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