

Standing Committee Report Summary

The Cinematograph (Amendment) Bill, 2019

- The Departmentally Related Standing Committee on Information Technology submitted its report on the Cinematograph (Amendment) Bill, 2019. It amends the Cinematograph Act, 1954. The Bill prohibits a person from using a recording device to make a copy or transmit a film, without written authorisation from the producer of the film. Persons who make copies of a film without authorisation will be punished with imprisonment of up to three years, or fine up to Rs 10 lakh, or both. The Committee made the following observations and recommendations:
- **Need for the Bill:** Piracy of films is a punishable offence under the Copyright Act, 1957. The punishment against this offence under the Copyright Act includes imprisonment for a term between six months and three years. The Committee observed that the proposed amendment in the Cinematograph Act may not be required as such offences are already adequately covered in other existing laws. Also, the Committee expressed concerns over the effective implementation of existing provisions of the Copyright Act for tackling piracy.
- **The minimum term for imprisonment and the minimum fine:** The Bill provides for punishment with imprisonment of up to three years, or fine up to Rs 10 lakh, or both against the specified offence. However, the Bill does not specify either the minimum term for imprisonment or the minimum fine. The Committee recommended that both a minimum term for punishment and the minimum fine should be specified in the Bill.
- **The maximum amount of fine:** The Committee observed that the maximum fine of Rs 10 lakh proposed in the Bill is insignificant and should be raised. The Committee proposed enhancing the maximum fine to a range of 5%-10% of the audited gross production costs of a film.
- **Nature of offence:** The Committee noted that the punishment for the specified offence in the Bill does not mention the nature of the offence (as to whether it is bailable or non-bailable). The Committee recommended that the Ministry should consider specifying the nature of the offence in this clause to remove any ambiguity.
- **Fair use provision:** Fair use permits limited use of copyrighted material without having to first acquire permission from the copyright holder. The Committee noted that while the Copyright Act, 1952 covers fair use, the Cinematograph Act, 1954 does not. Hence, it recommended that the Bill should have a fair use provision. Such a provision will provide adequate safeguards to persons using short clips of films for non-commercial purposes (e.g. for sharing on social media).
- **Definition of certain terms:** The Bill prohibits knowingly making copies of a film without authorisation. The Committee recommended that the Bill should define the term “knowingly” to prevent innocent persons from being prosecuted.
- **Overhaul of the Act:** The Committee observed that the 1954 Act does not cover a wide range of issues concerning general public and transformation of the information and cinematography landscape in the present time. In this context, the Committee noted that present law needs to be updated to address various issues related to film certification. The Bill also does not address these issues. Hence, the Committee recommended that the Act should be accordingly amended in future to address these concerns.
- **The mechanism to tackle cross-border piracy:** The Committee observed that India is not a signatory to the anti-counterfeiting trade agreements. Such trade agreements cover intellectual property rights issues between countries ranging in various areas including movies and music. Hence, it will be difficult to apply the provisions of the Bill in case of digital piracy originating across the border. The Committee recommended that a national law on the lines of the Digital Economy Act adopted by a few countries such as USA and UK should be considered. Such a law will provide a legal basis for negotiations on these matters with other countries.

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