

# Copyright extension – safeguarding against deepfakes

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# Danish proposal

Amending copyright act to introduce **performance protection** and **protection against digitally generated imitations**. Law to enter into force on 31 March 2026

## Performers' additional right:

§ 65a. Realistic, digitally generated imitations of a performing artist's or entertainer's artistic performance may not be made available to the public without the consent of the performing artist or entertainer.

2. The protection in subsection 1 lasts until 50 years have passed after the year of death of the performing artist or entertainer.

Applies to citizens/residents in a country within European Economic Area.

# Danish proposal

## **Protection against digitally generated imitations:**

§ 73a. Realistic, digitally generated imitations of a natural person's personal, physical characteristics may not be made available to the public without the consent of the imitated person.

2. Subsection 1 does not apply to imitations that primarily constitute expressions of caricature, satire, parody, pastiche, criticism of power, social criticism or similar, unless the imitation constitutes misinformation that could cause concrete serious harm to the rights or significant interests of others.

3. The protection in subsection 1 lasts until 50 years have passed after the year of death of the imitated person.

Applies to imitations of all natural persons, including non-Danish nationals.

# Dutch potential proposal in July 2025

- New sections to be added to the Neighbouring Rights Act
- Extending protection to likenesses
- Definition of deepfakes: ‘an image, audio or video material generated or manipulated by artificial intelligence that bears a resemblance to an existing or deceased natural person and may be falsely assumed by a person to be authentic or truthful.’
- Protection to last lifetime of persons in question plus 70 years
- Exceptions for parody, etc

Visser, Dirk J.G., Deepfakes under a neighbouring right (October 01, 2024). Available at SSRN: <https://ssrn.com/abstract=5046493> or <http://dx.doi.org/10.2139/ssrn.5046493>

# Extracts from explanatory notes to DK bill

- ‘Danish law already contains a number of provisions regulating the making available of manipulated videos, audio, and images containing other people’s personal characteristics, including in the Marketing Act, the Data Protection Regulation and the Penal Code.’
- New ‘protections are intended to ensure a clear legal basis that anyone can use to have realistic digital imitations removed from the various storage platforms we all use, including social media.’

# Extracts from explanatory notes to DK bill

- ‘The main purpose of the bill is to establish a clear safeguard against the misuse of others’ personal characteristics and to ensure that [...] ability to use artificial intelligence to create realistic representations of people and their performances [...] do not come at the expense of integrity, credibility, trust and transparency.’
- Ministry of Culture: § 65 should henceforth ‘not only provide protection for performing artists’ performances of works, but also include protection for performances that are not performances of works. [A]rtists are ensured full protection of their performances [...] regardless of whether it is linked to a work.’

# Comments

- Addressing urgent and unmet need but is it copyright subject matter?
- Regulating emerging market for avatars?
- Enforcement by the police and judiciary? Limited capacity? Is priority given to this?

Thank you for  
listening