



Broadcasting Licensing - An International Perspective

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ABOUT CISAC

- International Confederation of Societies of Authors and Composers
- Founded in 1926
- A non-governmental, not-for-profit organisation
- The leading worldwide network of CMOs
 - 230 authors' societies
 - 120 countries
 - Over 3 million creators and publishers

REPERTOIRES REPRESENTED BY MEMBERS

MUSIC



DRAMA



AUDIOVISUAL



LITERATURE



VISUAL ARTS



OUR MISSION

- Key goal:
 - Promote and protect the interests of creators
 - Increase the reach of the creator's voice
- Main activities:
 - Advocate for favourable authors' rights laws and policies
 - Government relations and lobbying
 - Build relationships between creators and policymakers
 - Technical and legal support to member societies
 - Establishing and maintaining information networks
 - Ensuring good governance of member societies

Broadcasting Right

- Berne Convention for the Protection of Literary and Artistic Works (entry into force in Mongolia in 1998)
 - Article 11bis
 - (1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:
 - (i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;
 - (ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;
 - (iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work.

Broadcasting Right

- LAW OF MONGOLIA ON COPYRIGHT AND RELATED RIGHTS

- Article 12. Exclusive rights

- 12.1. An author shall have exclusive rights over the exploitation of his/her work in any manner or form.

- 12.2. The exclusive rights over the exploitation of his/her work shall include the exclusive rights to allow or prohibit the following activities:

- 12.2.1. reproduction of a work;

- 12.2.2. publication of a work;

- 12.2.3. distribution of a work;

- 12.2.4. modification of a work into a derivative work;

- 12.2.5. rental of a work.

Need of Collective Licensing...

- Impossible for creator to identify, monitor and negotiate with the thousands of music-using establishments locally
- Use of Foreign works
- Economies of scale
- Easy to discriminate individual creators
- Difficult to set tariff rates

Collective Management of Rights

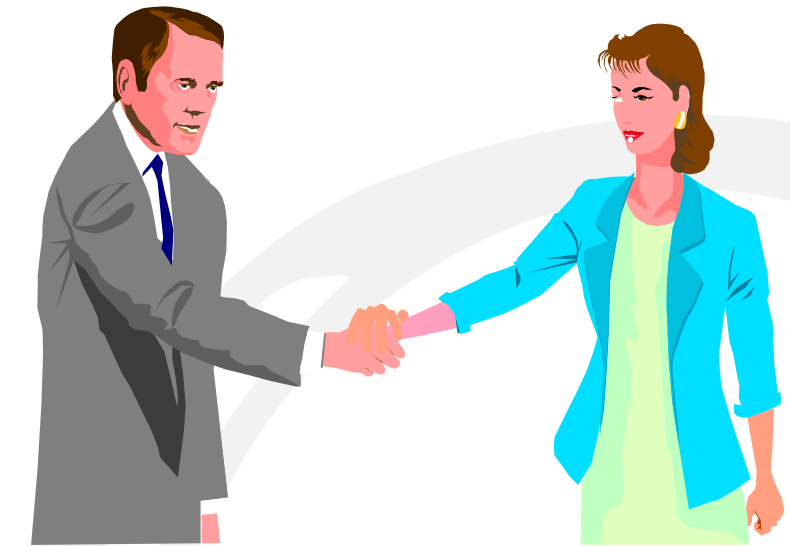
- Serving the best interest of Users by facilitating legal usage of works

Difficult & costly for user to contact thousands of users directly



User

CMO



Copyright Collective Management Organisation (CMO)

- Copyright owners entrust their rights to a CMO for licensing purposes, and expect to receive royalty distributions from the CMO on a regular basis from the licensing activities
- Mongolia Copyright Law : Article 27 – 29
- Example of CMOs for music licensing :
 - USA : ASCAP, BMI
 - UK : PRS for Music
 - France : SACEM
 - China : MCSC
 - Japan : JASRAC
 - Mongolia : MOSCAP

LICENSING - Value of Music

- **Essential Music**

- Where the music is closely linked with bringing in the revenues of the music user - Royalties should be expressed as a percentage of the user's revenues (indispensable music)



Published Tariffs & Rates

- Information on licence tariffs available and downloadable at websites of many societies

Licensing – Broadcast, Online & Interactive Transmission

- Factors determining tariffs
 1. Numbers of channels host by broadcast station
 2. Broadcast hours
 3. Music contents – popular / classical / public domain
 4. Types of programmes broadcast
 - i. Music videos
 - ii. Live band performances
 - iii. Movies
 - iv. Variety / cultural shows
 - v. Documentary shows
 - vi. News / business reports

Licensing – Broadcast

Tariffs – General principles

**What revenues
are included in
the basis?**

- Public fundings
- Advertising income
- Subscription revenues

- Typical Broadcasting Tariff

<u>Music Usage</u>	<u>Rate (% of advertising revenue)</u>
> 25%	0.5%
25% - 50%	0.75%
50% - 75%	1%
<75%	1-2%

France

Television broadcasting general tariff

Private free to air channels

5 % on advertising revenues

- **Rate reduced if the program contains less than 30% protected works**
- **Deduction of advertising costs (capped)**
- **For newly created channels, deduction on the amount of royalty during the first years of activity**

These tariffs cover the performing and the mechanical rights, for all repertoires included in the agreements (SACEM - SACD – SCAM – ADAGP)

France

Tariff : channels distributed by satellite/cable or IPTV operators

Channel

- 5 % on advertising revenues
- AND**
- 1,25% (reproduction right only) on the revenues received from operators
 - Deduction for advertising costs (capped)
 - Deductions for the first years of activity
 - With annual minimum

Operator

- 3.75% (performing right only) on subscription receipts
 - Deduction for costs
 - Deduction for the first years of activity(net rate around 2.4%)
- NB : AGICOA and Broadcasters are not part of our agreements with cable , satellite or IPTV operators

Japan

- 10 years contract starting April 2001
- Removal of the coefficient 50/100 in royalty calculation
- Broadcasters' payment will increase by 100% in 10 years (royalties as percentage of revenue 0.5% → 1%)

Mongolia

- MOSCAP – collect for musical works – local and foreign works
- Tariff will be issued soon

THANK YOU

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