



The Peerian Journal

Open Access | Peer Reviewed

Volume 5, April, 2022.

Website: www.peerianjournal.com

ISSN (E): 2788-0303

Email: editor@peerianjournal.com

Copyright Collective Management Organizations: Purpose And Necessary

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Annotation: Within the framework of copyright, rights holders enter into agreements with persons using works (objects of copyright and related rights) on their behalf on the basis of the powers granted by collective management organizations; the collection, distribution, and payment of fees to copyright holders have also been studied in detail. Attention is paid to some current issues related to the improvement of this institution, international standards of copyright protection and comparative analysis of national legislation, as well as the views of scientists from Uzbekistan and other countries. Suggestions and recommendations of scientific and practical importance for the development of copyright were put forward.

Keywords: copyright, payment under copyright agreements, copyright enforcement, collective management of copyright and related rights, public performance of the work.

Copyright law gives the author the absolute right to use the work in any form, fully defines the permissible restrictions of this right, gives the right to use the work to others, as well as the contract as a means and determines the mechanism of its implementation. If the work is protected by copyright, you may be able to use it by entering into an agreement with the author or his heirs. Similar rules apply to related rights objects [2].

However, this is difficult to do in practice. In this case, we mean that there is no real possibility, not the legal aspects, that is, some organizations can not enter into a contract with the author (right holder) of each used work (performance, phonogram), depending on the characteristics of their activities. This is due to the large number of these works and the owners of the rights, in turn, can not physically solve it, because their works or objects of related rights are used by a large number of users [3].

The solution to the problem is to create specialized organizations, ie collective management organizations, that simultaneously protect the interests of a large number of rights holders in dealing with those who use the works of the authors. Collective management is an opportunity in a copyright system that requires or allows right holders to manage their rights through a collective management organization [4].

Individual management of copyright and related rights may not always be close to reality. For example, an author, performer, or producer cannot apply to every radio station to negotiate a license and fee for using a song. On the other hand, even for a radio station, it is far from realistic to get separate permission from each author, performer, and producer to use each song. Collective



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governance organizations serve the interests of both parties and facilitate the formalization of economic reward rights for right holders [5].

By authorizing or mandating professional collective management organizations to manage their rights, authors, performers, producers, and other rights holders can simplify the management of these rights.

The essence of collective management is that organizations engaged in collective management of property rights undertake to manage these rights by concluding agreements with authors and copyright holders. At the same time, on behalf of the right holder, on the basis of its powers, it performs functions such as concluding contracts with other persons, ie users of the work, collecting, distributing and paying dues to the right holders. It also protects the rights of authors and other right holders in court. It should be noted that the characteristic feature of collective governance is that it can be protected simultaneously and in the interests of many right holders under general conditions.

Addressing the priorities set out in the Action Strategy for the five priority areas of development of the Republic of Uzbekistan in 2017-2021 is an important methodological basis for deepening institutional reforms in the economy of Uzbekistan and ensuring sustainable economic growth, reveals the essence of measures . In the Strategy of Action, he comprehensively substantiated that the implementation of liberalization in all spheres of life of the state and society is the main direction of the prospects of social, political, economic and spiritual development of our country. In this process, the role and place of non-governmental non-profit organizations will increase, as they will voluntarily assume some of the functions of government agencies.

They perform these functions not as an administrative office, but as a public association. Consequently, both the nature of these functions and the ways in which they are implemented will change. Article 45 of the Law on Copyright and Related Rights defines the powers of public organizations for the management of copyright and related rights. At present, in many countries of the world, such organizations are well-established and effective.

True, subjects of copyright and related rights may manage their rights in person or through legal representatives. However, firstly, the author is forced to devote part of his time to this, as a result of which he is distracted from creative work, and secondly, the artist has the necessary skills and knowledge in this area (in particular, contracting, monitoring its implementation, monitoring users of works and performances). on) and as a result the expected result may not always be as desired.

Due to the institution of collective management of copyright, it is possible to exercise absolute property rights where copyright cannot be exercised on an individual basis or is difficult. The effective functioning of this institute plays an important role in increasing the ability of Uzbekistan to fulfill its obligations under the agreements signed in the field of copyright.

The analysis of the legislation in this area and the practice of their application allow us to agree that the management of property rights of authors on a collective basis is a complex system. Management of copyright on a collective basis is applied in cases where authors (other copyright holders) are unable to independently exercise, protect their rights, and include:

1. Transfer of the right of authors (other copyright holders) to negotiate the terms of exploitation of their works by different users to organizations created specifically for this purpose;
2. control over the use of works whose rights have been transferred to management;



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3. payment for authors (other copyright holders) and distribution of the collected fee between them;

4. Take measures to protect the rights of authors (other copyright holders).

The system of collective management of authors' property rights may also provide for the performance of other functions by specially created organizations. In addition, they directly depend on the specific features of national legislation, the political system of a particular state, its economic system, the role of copyright management organizations in the system of copyright protection, and so on. The same factors determine other features of the system of collective management of property rights of authors of a particular state: the basis for the implementation of copyright management activities, organizational and legal forms of relevant organizations, the grounds for payment of authors (other copyright holders), etc.

In some countries, the activity of collective management of copyright in property rights is characterized only by the above-mentioned features. It is based and organized on the unique principles developed by world practice in this field over the past half year. These principles include:

1) empowering specially created organizations to manage copyright by their owners on a contractual basis or in accordance with the law;

2) as a rule, the non-profit nature of the activities of organizations for the collective management of property rights of authors;

3) granting the right to use the works submitted to management, as a rule, on equal terms for all potential users;

4) regulation of the activities of organizations that exercise and protect the property rights of authors on a collective basis by special legislation;

5) Restrictions provided by the legislation on competition do not apply to the activities of organizations managing property rights on a collective basis. It is allowed to create separate organizations for different rights and different categories of right holders, or organizations that manage different rights in the interests of one category of rights holders, or organizations that manage one type of rights in the interests of different categories of right holders.

In particular, B. Toshev, a copyright expert, said that "there is a need to establish collective management bodies of property rights in the country."

Since that time, at various times in our country there have been organizations that manage various property rights on a collective basis, such as the Guild of Authors and Performers, the Artmadad Foundation, the Chamber of Rights holders of Uzbekistan. However, to date, public associations have ceased their activities for various reasons. Founded on December 21, 2010, the Chamber of Rights holders of Uzbekistan is engaged in the management and protection of the property rights of authors, performers, phonogram producers and other right holders on a collective basis. In recent years, a significant increase in attention to the sector in our country can be seen in the fact that from 2019 to date, 4 non-governmental non-profit organizations have been established to collectively manage property rights. In particular, in 2019, 3 organizations - "Public Association of Copyright and Related Rights Holders of Uzbekistan", "Non-Governmental Organization for the Protection of Copyright", "Society for the Protection of Copyright and Related Rights of the Republic of Uzbekistan" were registered by the Ministry of Justice. [8].



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The Public Association of Copyright and Related Rights of Uzbekistan has set goals and objectives, such as the implementation and protection of property rights of authors of works of science, literature and art, performers, producers of phonograms and other owners of copyright and related rights.

Objectives and tasks of the non-governmental non-profit organization for the protection of property rights and assisting them in their collective management.

The charter of the Society for the Protection of Copyright and Related Rights of the Republic of Uzbekistan provides for the implementation and protection of property rights of authors, producers of phonograms, producers and other owners of copyright and related rights, etc.

On May 26, 2020, the Decree of the President of the Republic of Uzbekistan No. PF-6000 "On measures to further enhance the role and influence of culture and art in society" was adopted. In particular, the initiative of representatives of culture and arts to establish a "Chamber of Copyright of Artists, Creators and Performers" was supported by the President, and on this basis another NGO was established to manage the property rights of authors on a collective basis [9].

The Ministry of Culture should allocate 1 billion soums from the Fund for the Development of Culture and Arts under the Ministry of Culture to support it in the early stages of the Chamber's activity. shown in [10].

According to G.Khudayberdieva, who conducted research in this area, [11] serious reforms are being carried out in the country in the field of copyright and related rights, and its legal framework is being strengthened. In particular, today the agenda is to strengthen the international image of the country by fulfilling the obligations of the Republic of Uzbekistan on the basis of international legal instruments on copyright and related rights, as well as to further improve the system of effective management of property rights.

Although the legal basis of the institution of collective management of property rights is defined in the current legislation, it is being improved over time, and today this process is not completed [12].

Property rights of authors Civil Code of the Republic of Uzbekistan, Law "On Copyright and Related Rights", Resolution of the Cabinet of Ministers of January 19, 2008 No 10 "On minimum rates of royalties for certain types of use of works of literature and art" and other regulations is regulated by.

In general, the institution of collective management of property rights of authors and related rights holders has come a long way in a historically short period of time.

In conclusion, it should be noted that with the growing impact of intellectual property on the economy in the world today, the effective management of copyright and protection of their legitimate interests, as well as filling the gaps in relevant legislation is more important than ever.

In accordance with the world experience, it is necessary to establish relations with international organizations for the protection of mutual interests and rights of authors and performers, organizations, associations, societies, clubs and international organizations for the protection of intellectual property in Uzbekistan. Such societies should unite poets, playwrights, composers and performers on a voluntary basis and protect their rights, create a repertoire of works, collect and distribute appropriate copyrights, as well as protect the rights and interests of foreign authors and performers in the country. Along with increasing the number of consulting



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agencies on the protection of intellectual property rights in the country, it is necessary to adapt their activities to the requirements of the current global information exchange society.

Also, one of the institutional problems in the regulation of copyright and related rights, in particular the intellectual property market, is related to the activities of this television. It is well known that television is, on the one hand, the creator of copyright and related rights objects, and, on the other hand, one of the main users of such related objects. In such use, television must take into account its national interests, the interests of the country's creators. Today, in many Western European countries, there is a quota for foreign films shown on television. For example, as much as French television has been used by U.S. television studios, France has a quota for U.S. films. On the one hand, this prevented the currency from leaving the country, and on the other hand, it led to the wider use of copyright and related rights created by Uzbek entities in foreign countries. It would be expedient for the television of the Republic of Uzbekistan to introduce such quotas for the CIS countries. The market system requires the widespread use of contracts as the most acceptable, optimal legal form of commodity-money relations.

In order to accelerate the development of this institution in Uzbekistan, it is necessary to study the history of its formation, including the International Confederation of Authors and Composers' Associations (CISAC) and the Federation of International Organizations for the Protection of Performing Arts. It is necessary to improve national legislation by studying the rich experience of non-governmental organizations such as IFRRO).

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