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## ECONOMIC ASPECTS OF COPYRIGHT FOR BROADCASTING, TRANSMITTING, AND CABLE RETRANSMISSION OF THE WORKS OR ART

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***Abstract:**The topic of the research is “Economic aspects of the copyrights for broadcasting, transmitting, and cable retransmitting of the works of art”. **The actuality of the topic** is based upon the practice in using the works of arts by the cable operators, without payments for the copyrights and related rights established on them as a part of the content of the broadcasted and retransmitted TV programs. **The subject** is important since Bulgaria become part of the European Union, which creates a common economic, cultural and social open market. **The existing disrespect to the economic value of the copyrights and the related rights** could create a serious problem in international management of the rights of broadcasting and retransmitting the foreign art productions. **The object of the research** is the copyrights for broadcasting, transmitting, and cable retransmitting of the works of art. **The subject of the research** is the way of functioning of the system for management of those rights. **The main aim of the research** is to clarify that the rights for broadcasting, transmitting, and cable retransmitting of the works of art are separate property rights of the owner of general copyrights or related rights*

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The subject is important, since Bulgarian became part of the European Union, which creates a common economic, cultural, and, social open market. The existing disrespect to the economic value of the copyright and the related rights could create a serious problem in international management of the rights of broadcasting and retransmitting the foreign art productions.

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Concerning the field of creativity, where the creativity idea becomes a work of art, the right of an author to use the economic value of its creation is an important issue. In order to satisfy the impulse and to motivate the creativity, the legislator grants to the author a copyright to his original works. The copyright is a means of economic welfare and public recognition of the creative effort meeting the public cultural needs.

The copyright is the author's exclusive right to use on his/her own or allow third parties to use his/her original work against the payment of a specific remuneration. The payment of the required remuneration is a relevant part of the content of the copyright, since the copyright agreements are always payable. The remuneration is paid by the users, who may fall under the following two headings:

- Users such as performing artists, producers, and radio or television broadcast organizations, who in this capacity are owners of related rights on the performance; sound or video recording; own program;
- Users such as consumers of the objects of copyright or related rights such as and radio or television broadcast organizations, theatres, cinemas, public establishments, Internet providers, cable operators, and others.

All those users of the work of art should pay for its economic utilization to the owners of the rights upon it. The payment could be made individually or through the mediation of a special organization. The competent organizations in the field of copyright and related rights are the so called Collective management organization of copyright or collective management of related rights. These are two type of collective management

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organization established upon the principle of the kind of the managed rights. The competencies of CMO's are to represent the owners of the rights in negotiating the utilization of the work; to sign the authorship contracts by the name of the author and in its interest when he is a member of the CMO; to collect the due remunerations; to share out the percentage of the collected sum among the authors which works have been economically used; to represents internationally its members.

The CMO's manage the copyright or the related rights after their acquisition by the owners made with a transfer contract. In some cases, the owners after the rights' transfer do not have the rights to license the work on their own. In other cases, the owners can't manage some of their rights of utilization the work. They are obliged to do this through the mediation of a CMO. That case concerns particularly the right of cable retransmission of the work which could be only collectively managed. The utilization of the right of cable retransmission could be made under the condition of compulsory license for the owner where the license of broadcasting and transmitting the work includes its retransmission as well. Despite the compulsory license the user is obliged to pay separate remuneration for cable retransmission of the work.

The remuneration shall be collected and distributed by the Collective management organization of copyright or related rights /CMO's. These organizations are voluntary associations of owners of the rights in a specific branch such as music, film, literatures, etc. The producers and artists could participate separately of the authors in another CMO of related rights.

The collected remuneration shall be distributed by each CMO's among its members, who may be authors of various types of works, producers, or performing artists. Amounts shall be paid only to the members of the organization, whose works have been the object of economic use.

Before the sum of remuneration to reach the owners of the rights, the CMO's detach 20% and transfer it to the National Fund of Culture to support the sustain development of the national culture by implementing the national culture policy. Another percent of the remuneration sum could be detached by the CMO for its administration support. Usually the percent is lower that 10%. For example the CMO of music rights collects 5% for administrative costs, which is one of the lowest rates in Europe.

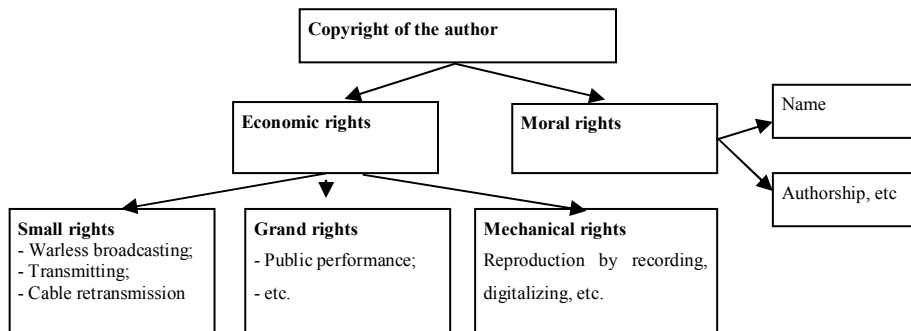
The CMO's have the competency to represent the author in relation with work's utilization by third parties when the owner of the right is not their member. The owner is represented when his work have been an object

of cable retransmission made without its preliminary consent. In this case, the CMO collects the due remuneration for the author and transfers it to him after establishment of similar relations as its member.

This specific legal provision is a result of the fact that the aforementioned rights are subject to collective management. This means that it is only CMO's acting on behalf of and at the expense of their members that may authorize a given work to be used by exercising the author's right of cable retransmission.

The right of cable retransmission is part from the group of so called small author's rights<sup>1</sup>.

**Scheme 1: Structure of the copyright content**



The small rights fall under a group of the author's economic rights as part of the scope of copyright. Copyright<sup>2</sup> includes two major types of rights, economic and moral rights. Each group comprises a set of separate rights that are comprehensively listed.

The cumulative or separate exercising of rights is regarded as using the protected object – the work. Moral rights are also named non economic copyright are defined as such not because they are ineffective in economic terms, but because they include certain basic personal authors' rights such as the right to a name and authorship.

<sup>1</sup> By analogy with authors, the performing artists hold small rights over their own performances, sound recording and audio recordings.

<sup>2</sup> This applies to the scope of the related right, concerning the structure of non-property and property rights. The specific thing is that the rights comprised by the copyright are fixed for the authors, but the rights related to the copyrights differ for their owner due to variety of the protected objects.