



## **SPECIFIC ASPECTS OF COLLECTIVE MANAGEMENT ORGANIZATIONS**

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<b>Received:</b> 10 <sup>th</sup> February 2022 <b>Accepted:</b> 8 <sup>th</sup> March 2022 <b>Published:</b> 24 <sup>th</sup> April 2022	Within the framework of the subject, it was studied in detail how right holders enter into agreements with persons using works (objects of copyright and related rights) on their own behalf on the basis of powers granted by collective management organizations, as well as collection, distribution and payment of royalties to right holders. Attention is paid to some urgent problems related to the improvement of this institution, international standards for copyright protection and comparative legal analysis of national legislation, as well as the opinions of scientists from Uzbekistan and other different countries. Suggestions and recommendations were put forward of scientific and practical importance for national copyright law.
<b>Keywords:</b> copyright, to enforce copyright, royalty, copyright and related rights collective management, public performance or display of a work.	

Basically in legislative circulation, the term "collective rights management" literally means "extended collective rights management", which is currently the most relevant issue as the main form of collective exercise of copyright and related rights, the current law on copyright and related rights provided in the documents. (Article 57 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights").

With the advent of new technologies, collective management of copyright and related rights as an internationally recognized method of exercising rights has become the most practical and important area in an increasingly technologically rapidly evolving environment, both individually and impractically[1].

The existing norms are fully applicable in new areas - the Internet and multimedia - where the old methods of copyright and related rights cannot be used. By its very nature, collective rights management is best suited to adapt to new ways of using digital technology work and allows for the maximum implementation of the idea of collective control over the use of protected objects in the digital environment and the production of digital media.

While the collective management system primarily serves the interests of the right holders, it provides users with very significant benefits, so that they can obtain legal access to the works they need in the simplest way possible[2]. By signing a "contract" with the collective management company, users will immediately have the opportunity to legally use an endless wide repertoire. No other system can provide this.

In addition, according to the Law of the Republic of Uzbekistan "On Copyright and Related Rights" (Article 57, Part 4), all possible property claims of right holders against users on the basis of such agreements on the use of their works and related rights should be regulated on a collective basis by the governing body (in particular, the fact of use itself, payment for use, etc.). Consequently, the users who enter into the contract are protected from the claims of the right holders and inevitably avoid material losses and damage to the business reputation[3].

Collective management of rights facilitates their implementation, on the one hand, by providing users with effective access to the works, and on the other hand, by adequately protecting the rights holders from arbitrariness. It is the activities of collective management societies that can create all the necessary conditions for the transition from a "destructive strategy" to a constructive strategy" in the relationship between rights holders and users[4].

In the CIS countries, the expanded collective management systems of copyright and related rights are still in the process of formation and face some shortcomings inherent in this stage[5]. In particular, sometimes in some publications there are statements that extended collective management systems of rights "alienate", that is, separate copyright from authors, "equalize", "monopolize rights" and related to them and lead to "undemocratic" implementation of these rights.

Clearly, the basis of copyright law is that for centuries the author and his successors have been legally granted the opportunity to allow or prohibit the



use of his work ("absolute right"). Analogous powers form the basis of related rights.

At a glance, what best fits the nature of absolute copyright is its use on an individual basis by the author himself[6]. However, it has been proven that there are a number of factors that inevitably make corrections to such theoretical concepts.

First, it should be noted that the author, even in the traditional areas of use of his works in the modern world, does not exercise personal control over their use and in many cases cannot even solve economic conditions. Second, individual control over some uses is so difficult that any attempt to implement it in practice makes such use of works absolutely useless[7]. In addition, due to technological advances, more and more new areas of use of works are emerging, in which it is generally impossible to control and ensure the implementation of copyright payments.

For example, if a country has several thousand radio stations that broadcast several hours of music every day, neither composers nor even music companies that represent their interests can simply allow their works to be broadcast individually. According to statistical research, given that national radio stations in different countries typically broadcast the works of tens of thousands of composers around the world each year, it would be absurd to require each radio station to broadcast with the prior permission of each composer. In such circumstances, it becomes an illusion that each right holder can exercise their rights independently. In any case, there must be an organization that takes on the role of mediator between the "producers" and consumers of music[8]. A community of authors created by the copyright owners themselves is best suited to perform these functions.

Many experts argue that absolute copyright and related rights are, in essence, permitted rather than prohibited, that is, their purpose is not to prevent the copyright owner from using his work by others, but to obtain commercial benefits (income) from it. It is to ensure that it can control use. In this regard, extended collective management is fully consistent with the main objectives of copyright, as it provides effective indirect control over the use of works and related rights, while direct control by the right holder becomes very expensive and almost ineffective. "In the context of collective governance, it is undeniable that the control of right holders over certain aspects of the exercise of their rights is more or less indirect[9]. However, if the system of collective governance is functioning properly, these rights ... will be best expressed in modern conditions."

As for the "equalization" inherent in collective governance, such views are completely unfounded. Indeed, under extended collective management, royalty rates are set independently of each copyright holder, usually bonus rates and other terms of license agreements with copyright societies can be negotiated with individual users of copyright societies or their associations[10]. However, all collected prizes will be distributed in accordance with the requirements of the law, according to the information about the actual use of the works by users. As a result, the more often a particular author's work is used, the more he is paid. Thus, equal rates of payment for the same type of use do not mean that right holders receive equal pay. Conversely, the following principle applies most in collective governance: the more often a work or object of related rights is used (e.g., radio, television, the Internet, etc.), the more likely it is that such objects protected by copyright or related rights will be used by users and the public. The more it is demanded, the greater the need for it, the more the right holder will eventually receive the right.

This approach is fully consistent with the general principles of wage setting in almost all areas of public use of works in the modern world. Thus, when a writer's work is published in a commercial publication, it is always determined, first and foremost, by the circulation of the published book, i.e., ultimately, at the request of the reader[11]. The revenue from showing a film in cinemas depends primarily on the number of viewers who watch that film. Other approaches are rare and are usually applied in areas such as the sale of original works of art (especially paintings, highly artistic jewelry, etc.), i.e., when a particular item is given, if the value is derived from its individual characteristics.

In some areas of work use (e.g., reprographic reproduction of works using modern copying machines), collective management organizations are forced to gradually shift to selective, statistical methods to maintain a reasonable balance in the distribution of accumulated wages and to maintain the right balance between two opposing goals: ensuring the correctness of the distribution of payments and preventing unreasonable increases in costs, as this may result in an unreasonable reduction in the amount of fees paid to right holders. Such methods, of course, include elements of "near fairness", but they guarantee a fair distribution of royalties among copyright holders, reflecting the actual use of copyright objects[12]. At the same time, the direct dependence of the amount of wages on the level of employment is fully preserved, i.e. "equalization" does not occur. Conversely, there will be



a clear demand-based distribution to a specific object that is protected by copyright.

The consolidation of "monopoly" rights is an inevitable consequence of the need to provide a comprehensive repertoire in each country, with an expanded collective control over the use of certain jurisdictions under the jurisdiction of a single organization or a single body. . At the same time, it is necessary to pay special attention to the cases noted by many experts: "categories such as" market "," competition "and" monopoly "are absolutely alien to the essence of absolute copyright and related rights and do not include them and do not apply directly."

Of course, it is not possible for more than one organization to represent all authors in the same way using their works. Competition between such organizations leads to the conclusion of contracts with users on the most unfavorable terms for the right holders, including the payment of the minimum rates.

Some scholars make theoretical assumptions about how "democratic" a society can be if it works only on the basis of a system that represents its members. At the same time, it is clear that such a system is not in the public interest at all, leads to a limitation of the repertoire used and does not allow users to comply with legal requirements.

It is not difficult to imagine the possible negative consequences of distributing a single repertoire of existing corporate governance organizations among an unlimited number of newly established organizations, each of which can only represent the interests of its members and each user (e.g., each broadcaster, would have to negotiate separately with each concert venue) as well as pay for the use of a very limited repertoire provided by such an organization on completely different financial terms. In practice, using such an approach raises questions that cannot be immediately resolved. For example, among such many organizations, how to distribute the fee paid by users in the form of a certain percentage of their income, how to distribute the documents of used works, and so on. The established fee (royalty) collection system would inevitably be threatened with termination[13].

At the same time, such an "alternative" approach, which assumes that each collective management organization operates only on the basis of agreements with rights holders and only in the interests of its members, does not solve the current problems.

Current legislation defines two categories of copyright ownership: copyright and related rights:

1) absolute property rights;

2) the right to a fee (if there is a "mode of use through non-contractual payment").

Absolute property rights allow the right holder to receive or prohibit the use of his work or object of related rights and to receive payment for its use in accordance with the agreements or, if the use is carried out under a license, from the collective management organization.

National legislation, as mentioned above, presupposes the legitimacy of the collective management of such rights[14]. At the same time, the right holder has the right to demand from the organization to exclude his works or objects of related rights from the contracts provided to users by this organization (Article 59 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights").

However, in some cases, the current legislation provides for the establishment of a "non-contractual use regime" in full compliance with international practice and practice, and as a result, only the right holder has the right to receive such a fee. (for example, Articles 33, 51 and 8 of Article 15 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights"). Such norms provide for the harmonization of national legislation with the provisions of international instruments, and in other cases provide for the exercise of rights in other ways (e.g. Article 33 of the Law of the Republic of Uzbekistan "On Copyright and Related Rights" In such cases, the right holder has neither the legal nor the factual opportunity to prohibit the use of his works or objects of related rights or to exclude them from the repertoire of the collective management organization of rights.

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