

Abstract**The Legal Response to the Evolution of
Digital Transmission Service**

Ahn, Hyojil *

Since the amendments of Korean Copyright Act in 2006, the introduction of the right of digital audio transmission has reduced the use of illegally reproduced recordings, but it has not completely satisfied the neighboring rights owner such as the performers and the phonogram producers. The digital audio transmission has 'simultaneousness' and 'not on-demand service' as basic features. However with the evolution of digital transmission technologies and its services, the digital audio transmission maintains these characteristics formally, but virtually a service similar to 'making available'(so-called 'quasi-making available') appears, so that neighboring rights owner still cannot exercise their exclusive right and receive only relatively low remuneration. Therefore, this study suggests not to be bound by the technical and formal characteristics of 'simultaneousness of reception' but to consider the economic aspect of the profits attributable to musical works. In addition, this study proposed to abolish the approval system of the copyright tariff in order to guarantee appropriate remuneration for the digital audio transmission and to remove the temporary reproduction exceptions for digital audio transmission service provider. Furthermore, this study reveals that digital video transmission service providers are obliged to pay digital audio transmission remuneration to neighboring rights owner according to the interpretation of the current law. Lastly, this study presents the amendment of related provisions of the Korean Copyright Act.

* Professor Dr. Korea University School of Law

Keywords

Digital Audio Transmission, Digital Video Transmission, Digital Transmission, Webcasting, Webradio, Internet Radio, Right of Making Available, Right of Communication to the Public, Remuneration, Copyright Tariff

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