

**Abstract****Recent Trends of the German Collective Rights Management Law**

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This study introduces and analyzes the recently enacted German Collective Rights Management Law, examining Germany's overall copyright management system: establishing a collective rights management organization, supervising the collective rights management organization, securing transparency, determining the royalty usage fee, dispute resolution procedures for users and the organizations, deposit rights and conditional payments for use of copyrighted works when the two parties disagree. Next, based on this, we propose a legislative approach that is urgently needed for the improvement of its counterpart system in Korea.

Although Korea does have regulations regarding the establishment of a trust management organization and supervision after its establishment, conflicts between supervising authorities and the organizations have constantly arisen due to the strict establishment requirements and ambiguity of supervision rules. Also, the approval system for usage fee collection rule have caused similar conflicts between the organizations and users, authorities being unable to arbitrate the matter with lack of regulations. Besides general judicial proceedings, there are not enough procedures for alternative dispute resolution measures, such as mediation and arbitration by the right holders or experts in the relevant fields, to effectively resolve disputes between users and collective management organizations regarding the adequacy of copyright royalties. There is a mediation procedure through the Korea Copyright Commission, but instead of the adequacy of copyright royalty, it mostly deals with small claims regarding copyright infringement, damage measurement between individual rights holders and individual users, or collective management groups and individual users. The procedure cannot be deemed

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as effective, as it is not widely used due to the low reliability of the coordination unit or the arbitrary environment of the procedure.

In particular, when there is no agreement between the user and the collective rights management organization, the current law system does not allow any use of copyrighted work, which leads to damaging the owner and the user, as well as the consumer. In preparation for such cases, the German Collective Rights Management Law includes depositary rights and a conditional payment system, in which users are to deposit or pay a certain amount of money to use copyrighted work, preventing the stoppage of using copyright work and later. Such a system could be beneficial to all parties concerned and therefore should be considered for utilization.

The outline of this study is as followed: Examining the permission process for establishment, denial of permission, authority of supervisory authorities and reporting obligations of collective rights management organizations regarding the approval and supervision of the organizations (II-2), Examining the internal management of the collective rights management organization, the obligation to enforce the contract as external relations, depositary rights and conditional payments, the obligation to establish, calculate and notify collection rates, the obligation to provide information, the obligation to prepare the accounts and the obligations to provide a transparency report (II-3), Examining the arbitral tribunal, mandatory or voluntary mediation procedures (II-4), Analyzing in depth regarding deposit rights and conditional payments peculiar to German law, considering the continuous discord between the organizations and users regarding the usage fee (II-5). With consideration the universal necessity of Copyright Collective Rights management, an analysis of the German collective right management organizations law and collective rights management guidelines of the European Union for the online usage rights of musical works (II-6). Based on the such examination and research, we briefly suggest revision of the Korean copyright law or new legislation on the copyright management.

**Keywords**

German Copyright Act, German Collecting Societies Act, Collective Copyrights Management, Collective Copyrights Management Organization, EU Directive on Collective Copyrights Management