

Abstract

**An Issue on the usage fee of the background music
of audiovisual works transmitted in OTT**
- A critical review of Article 24 of the terms and conditions of
fee collection of LICENSING RATES AND TARIFFS -

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With the OTT service, viewers can get to watch the broadcast at places and times when the Internet is available, and OTT may grow into a global platform that can be serviced anywhere in the world. Whenever a new media delivering TV broadcasting emerges, fees for works used in broadcasting programs become problematic and music collective management organizations and users have made to negotiate over it.

The current issue is over the usage fee for the background music of the audiovisual works transmitted in OTT. In response to newly prescribed terms and conditions of fee collection for OTT, the OTT businesses filed a lawsuit against the Ministry of Culture, Sports and Tourism to repeal the approval of the new terms and conditions, claiming that the collection regulations were approved without reflecting the opinions of all stakeholders and reality of the OTT industry.

This paper examined the problems and background of the terms and conditions of fee collection. First of all, under the current law, the use of broadcasting on OTT is a mixture of simultaneous transmission and retransmission of broadcasting, and transmission of original content, so it cannot be determined as "VOD" service as KOMCA claims. Secondly, it is a matter of double collection of

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pre-licensed music. Secondly, creators and producers make contracts about pre-licensing on the music work in the production stage, but claiming these contracts are invalid, KOMCA requests the broadcasting business to pay the fee again. It may get to be the issue on double collection. In order to prevent this problem, British and Japanese CMOs reflect the double fee collection in the terms and conditions of the membership and of the fee collection to prevent double fee collection. KOMCA should reflect the double fee collection in its terms and collections. The third is the management ratio. Although the management ratio is reflected in the terms and conditions, it brings about conflict because the KOMCA unilaterally sets it up so that it is significantly different from the actual situation. Efforts should be made to develop a system that can accurately reflect users' usage details of KOMCA's music and reflect them in contracts. Also, compared to paid broadcasts such as cable TV and satellite broadcasting, it is unfair that despite the same content delivers via OTT, KOMCA should apply different rate to OTT differently from other paid broadcasts. It is necessary to consider whether it violates the principle of the same rate for the same service.

Terms and conditions of fee collection should be approved by the Ministry of Culture, Sports and Tourism. The reason why the Ministry of Culture and Sports is involved in the terms and conditions by approving them is to exclude the exclusive interests of CMO. It is time for involved parties to make efforts to promote the content industry in a balanced manner and to ensure the viewer's right to watch broadcast, by understanding above-mentioned points.

Keywords

terms and conditions of fee collection, transmission of audiovisual works, LICENSING RATES AND TARIFFS, double collection, pre-license, management ratio, Over-the-Top