



SCREENING CHAPTER 7 INTELLECTUAL PROPERTY LAW

AGENDA ITEM IV: BROADCASTING VIA SATELLITE AND RETRANSMISSION BY CABLE

**Country Session: The Republic of TURKEY
2-3 March 2006**



RELATED INSTITUTIONS

- **The Ministry of Culture and Tourism is the main body responsible for copyrights and related rights (The General Directorate of Copyright and Cinema)**
- **Radio and Television Supreme Council**



RELATED LEGISLATION

- **Law No 5846 on Intellectual and Artistic Works**
- **Law No 3984 on Establishment of Radio and Television Enterprises and their Broadcasts**
- **By-law on the Rules and Principles for the Utilization and Transmission of Works, Execution, Production and Broadcasting**



EUROPEAN CONVENTION ON TRANSFRONTIER TELEVISION

- **Enforcement Date: 01.05.1994**
- **Concerned with programme services embodied in transmissions**
- **The purpose is to facilitate, among the parties, the transfrontier transmission and the retransmission of television programme services**



COMMON REGULATION

Both broadcast via satellite and cable retransmission rights are regulated on the basis of same principles in Art. 25 of Law No 5846



PRINCIPLES RELATED TO THE USAGE OF WORKS, PERFORMANCES, PHONOGRAMS AND PRODUCTIONS (Law No 3984 Art. 37)

Radio and television organizations make a contract with the rightholders, holders of related rights or collecting societies, in order to use works, performances, phonograms and productions in their programmes



SATELLITE BROADCAST

(Law No 3984 Art. 3)

Defined as initial broadcast for radio or television programmes:

- By competent broadcaster or person or the organization that is to provide the service**
- Via any medium that can transmit, encoded or unencoded, through space**



TRANSMISSION RIGHT VIA SATELLITES

(Law No 5846, Art. 25)

The right of broadcasting the original work or the reproduced copies via satellites belongs exclusively to author of the work



ACQUISITION OF THE RIGHT FOR TRANSMISSION VIA SATELLITE (Law No 5846, Art. 43)

The organisations which will broadcast or transmit programmes via satellite

- Must obtain prior authorisation from rightholders concerning staged works such as opera, ballet, theatre and other stage works that will be used in their broadcasts**
- Must obtain authorisation through the conclusion of an agreement with collecting society operating in the relevant fields for works, performances, phonograms and productions other than staged works**



ACQUISITION OF THE RIGHT FOR TRANSMISSION VIA SATELLITE (Law No 5846, Art. 43)

- **Make payments concerning the said use or transmissions to these societies**
- **Must forward lists concerning the works, performances, phonograms and productions they use to these societies**



RETRANSMISSION BY CABLE

(Law No 3984, Art. 3)

Defined as;

- Receiving completely or partly of radio and television program services in an unchanged form**
- Transmitting simultaneously or with a delay due to technical reasons, for reception by the general public**
- Irrespective of the technical means employed by the competent broadcasting organization**



RETRANSMISSION RIGHT VIA CABLE

(Law No 5846, Art. 25)

Right of re-broadcasting to the public, by different broadcasting organizations, after obtaining works from the previous broadcasts, belongs exclusively to the author



ACQUISITION OF THE CABLE RETRANSMISSION RIGHTS (Law No. 5846, Art. 43)

Cable broadcasting organizations that will broadcast or transmit programs,

- Must obtain prior authorization from rightholders concerning staged works such as opera, ballet, theatre and other stage works that they are going to use in their broadcasts**
- Must obtain authorization through the conclusion of an agreement with collecting societies operating in the relevant fields for works, performances, phonograms and productions other than staged works**



ACQUISITION OF THE CABLE RETRANSMISSION RIGHTS (Law No. 5846, Art. 43)

- Make payments concerning the said use or transmissions to these societies**
- Must forward lists concerning the works, performances, phonograms and productions they use to these societies**



RELATED RIGHTS

(Law No 5846, Art. 80)

Holders of related rights;

Have the exclusive right to grant authorization for the public transmission by means of instruments enabling transmission of signs, sounds and/or images and re-transmission of fixations



RECONCILIATION COMMITTEE

(Law No 5846, Art. 41)

- **A “Reconciliation Committee” can be set up by the Ministry, when broadcasting organizations and the collecting societies cannot reach a compromise on a contract,**
- **“Reconciliation Committee” consists of one representative from the Ministry, two from the Competition Board, and one representative from each of the collecting societies and of the professional organizations representing the users**
- **In case of not reaching an agreement after negotiations, parties may have recourse to judicial remedies**



THANK YOU FOR YOUR ATTENTION