



ADDIS ABABA UNIVERSITY

COLLEGE OF LAW & GOVERNANCE STUDIES

SCHOOL OF LAW

REGULAR GRADUATE PROGRAM

MASTER OF LAW (LLM) IN BUSINESS LAW

**THE LEGAL FRAMEWORK FOR THE EXPLOITATION OF
PROTECTED WORK BY BROADCAST MEDIA AND THE ROLE
OF THE COPYRIGHT SOCIETY IN ETHIOPIA**

BY

Abebaw Abebe Kassa

ADVISOR : Mandefro Eshete

SEPTEMBER, 2024

**The Legal Framework for the Exploitation of Protected Work by Broadcast Media
and the Role of the Copyright Society in Ethiopia**

By

Abebaw Abebe Kassa

Adviser: Mandefro Eshete (Dr.)

A Thesis Submitted to the Law Faculty of Addis Ababa University in Partial Fulfillment
of the Requirements of the Degree of Masters in Business Law (LLM)

Addis Ababa University
College of Law & Governance Studies
School Of Law

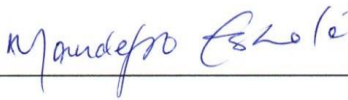
September, 2024
Addis Ababa, Ethiopia

APPROVAL SHEET BY THE BOARD OF EXAMINERS

"The Legal Framework for the Exploitation of Protected Work by Broadcast Media and the Role of the Copyright Society in Ethiopia"

BY : ABEBAW ABEBE KASSA

A Thesis Submitted to the Law Faculty of Addis Ababa University in Partial Fulfillment of the Requirements for the Award of Masters in Business Law (LLM)



Advisor: Dr. Mandefro Eshete (PHD)



Signature

Examiner:

Signature

Examiner:

Signature

Declaration

I, Abebaw Abebe hereby declare that the thesis on "The Legal Framework for the exploitation of protected work by broadcast media and the role of the copyright society in Ethiopia" is my original work, and this thesis has not been presented in any other University, and that all sources of materials used for the thesis have been fully acknowledged and cited by the researcher.

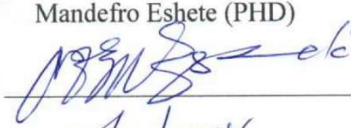
Declared by : ABEBAW ABEBE

Signature: 

Date : 30/09/2024

This thesis has submitted for examination with my approval as university adviser:

Adviser : Mandefro Eshete (PHD)

Signature: 

Date: 30/9/2024

Acknowledgment

First of all, I would like to praise the Almighty God for providing me strengths and patience from the beginning to the end of this Paper. Second, I would like to express my gratitude to my advisor Mandefro Eshete (Dr). whose unreserved help made the research possible. I would like to extend my deepest gratitude to Dr Solomon Abay Associate Dean for Graduate Programs for his fervent advice and feedback have greatly enriched this study. I would like also to extend my heartfelt thanks to my Friend Yared Gezahegn for his good cooperation. I also owe a great deal to my wife Nani and my children Malden, Mamar and Maya for their unconditional love and whole embracing support that made me develop confidence in what I have been through. Last, but not least, my gratitude goes to all my friends for their comments in writing this paper and those unforgettable time we had and to all those helped me to accomplish this thesis.

Table of Contents

Declaration	iii
Acknowledgment	iv
Acronyms	vii
Chapter One	1
Introduction.....	1
1.1. Background of the Study.....	1
1.2. Statement of the Problem	4
1.3. Objective of the Study.....	7
1.3.1. General Objective	7
1.3.2. Specific Objective.....	8
1.4. Significance of the study	9
1.5. Scopes and limitations of the study.....	10
1.6. Hypothesis of the Study	11
1.7. Literature Review	12
1.8. Methodology and Methods.....	15
1.9. Organization of the study	16
Chapter Two.....	17
2. Legal framework for the protection of related rights	17
2.1. International conventions in the field of related rights	17
2.2. The world trade organization	18
2.3.1. The TRIPS Agreement.....	18
2.3. Neighboring rights conventions	18
2.3.1 The Rome Convention	18
2.3.2 The Phonograms Convention.....	20
2.3.3 The Satellites Convention (Brussels Convention)	21
2.4. National copyright legal framework	21
Chapter Three.....	24
3.1. Historical developments of copyright collecting societies.....	24
3.2. Theoretical justifications of copyright collecting society	25
3.2.1. Incapacity to effectively administer their rights	25

3.2.2. Transaction cost theory	26
3.3. Functions collecting societies.....	26
3.3.1 Acquisition of rights	27
Chapter Four	32
4.1. Exploitation of protected works by broadcast media	32
4.4 Copyright infringement and remedies under the law	40
4.5 Types of remedies.....	41
Chapter Five.....	42
5. Findings, Conclusion and Recommendation	42
5.1. Findings of the Research	42
5.2. Conclusion.....	43
5.3. Recommendations	44
BIBLIOGRAPHY	46
• Books.....	46
• Journals and Articles	46
• Laws	47
• Internet Sources.....	48

Acronyms

EIPO	Ethiopian Intellectual Property Office
FRROI	International Federation of Reproduction Rights Organization
ILO	International Labour Organization
TRIPS	Trade-Related Aspects of Intellectual Property Rights
UNESCO	United Nations Educational, Scientific and Cultural Organization
CISAC	International confederation of Societies of Authors and Composers
CLA	Copyright Licensing Agency
ECNRCMS	Ethiopian Copyright and Neighboring Rights Collective Management Society
FM	Frequency Modulation
GATT	General Agreement on Tariffs and Trade
IFRRO	International Federation of Reproduction Rights Organization
MFN	Most Favored Nation
TV	Television
WIPO	World Intellectual Property Organization
WPPT	WIPO Performance and Phonograms Treaty
WTO	World Trade Organization

Abstract

Exploitation of protected works by broadcast media is one of the Economic right violations of the authors and their successors in title. The growth of broadcast media industry in Ethiopia has presumably had a significant impact on the violation such economic right of the author. Copyright collecting societies serve as intermediary between users and copyright holders and create less costly supply of copyrighted works and less costly access to users of copyrighted works. The thesis explores how broadcast media in Ethiopia exploit copyrighted works, especially audiovisual content, without properly compensating the creators. Such actions violate the economic rights of authors, musicians, and other creators. The study highlights that while Ethiopian copyright laws, like Proclamation No. 410/2004 and its amendment, Proclamation No. 872/2014, are in place to protect those rights, but the enforcement is too weak. Broadcast media, particularly radio and television stations, often fail to pay royalties for using local and international audiovisual works, and there is no effective system to ensure they do so. Copyright collecting societies are designed to manage the rights of creators by issuing licenses, collecting royalties, and distributing these payments to the rightful owners. However, in Ethiopia, the copyright collecting society is still underdeveloped and faces several challenges, including a lack of government support, limited awareness among the public, and inadequate legal and institutional frameworks. This situation allows media companies to freely exploit protected works without facing penalties or being held accountable. The thesis also examines international agreements, such as the Rome Convention and the TRIPS Agreement, which set global standards for copyright and neighboring right protection. The study concludes by recommending stronger legal enforcement, greater government backing for the copyright society, and a more organized system for collecting and distributing royalties to ensure fair compensation for authors in Ethiopia.

Key Terms: Copyright Law, Broadcast Media, Audiovisual Works, Copyright Infringement, Collective Management Society, Royalty Payment, Intellectual Property Rights, Ethiopian Legal Framework, Neighboring Rights

Chapter One

Introduction

1.1. Background of the Study

Copyright has been the subject of international attention for over a hundred years: The Bern Convention for the protection of literary and artistic works dates from 1886. It has been amended and improved on several occasions.¹ There has been no revision so far. It is jointly managed and directed by the United Nations Educational, Scientific and Cultural Organization, (UNESCO), the International Labor Organization (ILO) and WIPO. Copyright embodies a set of exclusive or monopolistic rights over literary, artistic and cultural works to which some form of creativity could be traced. These set of exclusive rights envisage the aim by legal systems to attain equilibrium of the interest of authors to monopoly on the one hand, and free exploitation of consumers on the other. As such many subjects in copyright law like idea-expression dichotomy, fair use defenses, copyright ability or eligibility and the like directly impact how this balance is drawn.²

With the growth of industrialization and the subsequent technological development and emergence of multiple chains of distribution of copyrighted works made individual enforcement of copyright and related rights very difficult.³ Put differently, the number of users of such works increased and became difficult for the right holders to individually negotiate with users and manage legal exploitation of their works.

At the same time users also faced difficulties to negotiate with individual right holders due to time and distance constraints. Such difficulties proved the inadequacy of enactment of copyright laws, individual negotiation and enforcement of copyright and related rights, and ordinary judicial system for effective enforcement of copyrights and related rights and as

¹ The international Convention for the Protection of performance and producers of Phonograms and Broadcasting Organizations is more recent since it was assigned in Rome in 1961.

² Howard B. Abrams, "Originality and Creativity in Copyright Law", (1992), Journal of Law & Contemp. Problems, Vol. 55 No 2, p 3

³ Nikoltchev S. (Ed.), The Influence of New Technologies on Copyright, IRIS plus 2014-4, European Audiovisual Observatory, Strasbourg, 2014.

a result paved a way for evolvement of collective management system of copyrighted works.⁴

Technological development and multiple chain of distributions of copyrighted works, indicated that, in addition to an appropriate legal framework, a strong state administration and functional judicial system; a developed collective management system of copyright and related rights is essential to ensure an efficient enforcement of copy right and related rights law.⁵ Thus, lack or weakness of copyright collecting society could lead to the failure of the copyright enforcement system. Collecting society plays an important role especially where copy righted works are so widely used and that becomes difficult or practically impossible for the owner to individually negotiate and issue licenses to all users and the vice versa.

Copyright collecting societies were developed so as to rectify the difficulty faced by individual copyright holders to negotiate and give license to multiple and dispersed users and vice versa.⁶ They serve as intermediary between users and copyright holders and create less costly supply of copyrighted works and less costly access to users of copyrighted works. With the same reason, i.e., to enforce their rights, following the promulgation of copyright proclamation in 2004, Ethiopian copyright holders and their professional associations have established a copyright collecting society to collectively enforce their rights.⁷

The development of science and technology in the world has made copyright protection vital⁸ and unlike many other laws copyright law happens to be under constant influence of revolutionary technological developments. This is because the technologies that are used to record and distribute copyright works are under frequent technological mutations.

⁴ NCTAD (2003). Intellectual Property Rights: Implications for Development. New York and Geneva: UNCTAD-ICTSD. Work data: ISSN: 1681-8954.

⁵ Ficsor, M. (2010). Collective Management of Copyright and Related Rights. WIPO.

⁶ Gebremedhn, Kahsay (2013) The emerging Ethiopian Copyright and Related Rights Collecting Society: Assessment of Challenges and Prospects, Addis Ababa University.

⁷ Ethiopian copyright and neighboring rights collective management society (ECNRCMS), November 2008

⁸ Association OF Research Libraries, Copyright Timeline; A History of Copyright in the United States, retrieved from www.arl.org/focus-areas/copyright-ip/2486-copyrighttimeline#.VyQBNTOEZqs, accessed on March 7, 2023, 2:30 a.m.

As the means to record and distribute copyright works gets easier and simpler than the opportunity that those copyright works be illegally copied and distributed becomes ample and alluring.⁹ Thus the laws have to keep track of the science and technology so that it would be possible to minimize the effect of illegal reproductions, distributions and other copyright infringing activities powered by technological advancement.

The law operates to prevent any unauthorized person from exploiting the protected work without the permission of or the remuneration of the owner of audiovisual work, which may or may not be the author or creator of the work. Any exploitation of the work without such permission or remuneration is termed an infringement of the copyright law which the violator punishable by law and attracts various civil and some criminal penalties. Broadcast Media has served as a powerful instrument to Entertain, inform and promote a range of democratic value and to boost the development agenda.¹⁰

Ethiopia's Radio and Television sector has gone a long way to raise entertainment contents as demonstrated by the large and diverse audiences. Media Industry in Ethiopia has developed specific business models That Exploit audiovisual works for commercial purposes. It is known that there is no licensing system that enables broadcasters to control the Exploitation or illegal usage of audiovisual works in their program.¹¹

Furthermore, no Royalty payment at all for any of Audiovisual works in Ethiopian Broadcast media. Specially in FM Radio stations for the use of Musical Works, Musical works for advertising purposes, Narratives, instrumental music's and even in Television Programs we can see that music contests or the so called Idol shows , video clips, movies, dramas, Theatrical arts, video clips for advertisement purposes and orchestrated musical works have no royalty payment and there is no entity or collective society to enforce The royalty in accordance to the law to sum up 100 % local and international music and 100% local made movies and films produced abroad, by translating in to Amharic from different

⁹National Research Council of The National Academies, Copyright in the Digital Era: Building Evidences for Policy, 22, 2013, retrieved from www.nap.edu/read/14686/chapter/4, accessed on March 7, 2023, 2:30 a.m

¹⁰ Ulrich, Establishment of Collective Management Organizations, (http://www.wipo.int/aboutip/en/copyright_societies.html) last visited on March 13, 2023, 4:00 a.m.

¹¹ Inter news, 2023, Ethiopian Digital Media Information Ecosystem Assessment

languages are illegally transmitted on broadcast media without paying any royalty fee to any of the copyright holder. So those points are factual information's on the current state of Exploitation of audiovisual works by broadcast media. Establishment and operation of collecting societies, especially in developing countries like Ethiopia where the financial and technical capacity of the copyright holders is at a very rudimentary stage, is not effective in the absence of appropriate legal and institutional framework and other technical assistance of the government. There are also a number of obstacles that an emerging collecting society, like ours, usually faces.

Thus, the main theme of the paper is to uncover the opportunities and challenges that how Ethiopia's laws regulate, protect and enforce the right of the copyright owners from arbitrary use and how institutional frameworks are functional, for the proper performance of intellectual property right and the emerging Ethiopian copy right collecting society has been facing in the process of its establishment and would face in its operation on the exploitation of protected or copyrighted works by broadcast media. In doing so, particular emphasis would be given to the existing relevant institutional and legal framework of the nation. Based on the findings, the paper would recommend measures to be taken so as to make the emerging Ethiopian collecting society effective in enforcement of exploitation of protected or copyrighted works by broadcast media.

1.2. Statement of the Problem

Copyright law in Ethiopia is intended to balance the rights of creators and users, ensuring the protection of intellectual property while promoting access and innovation. However, this balance faces numerous challenges, particularly in the enforcement of copyright and neighboring rights in the context of broadcast media. These challenges have far-reaching implications for creators, copyright holders, and the Ethiopian cultural and creative industries at large.

Prior to the advent of the internet and digital media, concerns regarding piracy were minimal. However, the rise of digital platforms and the absence of robust legal protections have exposed significant gaps in Ethiopia's copyright framework. Internationally, sound recordings were recognized as requiring specific rights with the adoption of the Rome Convention in 1961 and subsequent directives such as the European Union's 1992

copyright directive ¹². These instruments established the principle of performance rights for sound recordings, albeit with limited scope. Ethiopia, however, has not fully aligned its domestic laws with these international standards.¹³

Ethiopia's initial foray into copyright protection began with the 1960 Civil Code, which offered rudimentary protections for literary and artistic works¹⁴. This framework was insufficient, necessitating subsequent legislation. Proclamation No. 410/2004 and its amendment by Proclamation No. 872/2014 sought to expand and modernize copyright protections. However, several unresolved issues persist.^{15 16}

Ethiopia's initial foray into copyright protection began with the 1960 Civil Code, which offered rudimentary protections for literary and artistic works. This framework was insufficient, necessitating subsequent legislation. Proclamation No. 410/2004 and its amendment by Proclamation No. 872/2014 sought to expand and modernize copyright protections. However, several unresolved issues persist:

1. Ambiguities in Defining Commercial Use

Article 38(1) of Proclamation No. 872/2014 mandates royalty payments for the commercial use of copyrighted works. However, the law lacks clear definitions of "commercial" and "non-commercial" use, particularly in the context of broadcast media. This ambiguity undermines enforcement and creates loopholes for broadcasters to avoid payment.

2. Lack of Regulation for Media Types

Ethiopian broadcast media are categorized under Proclamation No. 1238/2021 into public, private, community, online, and print media. However, the amended copyright law does not impose mandatory rules requiring these entities to pay royalties for copyrighted works used commercially.

¹² Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations, 1961

¹³ David Nimmer, Ignoring the Public, Part I: On the Absurd Complexity of the Digital Audio Transmission Right, 7UCLAENT.L.REV.189(2000).

¹⁴ Civil Code of Ethiopia, 1960, Article 1280–1295

¹⁵ Sound Recording Act of 1971, Pub. L. 92-140, 85 Stat. 391 (1971).

¹⁶ Proc. No. 410/96 Art. 7 (1)

3. Royalty Collection and Distribution Challenges

The Ethiopian Intellectual Property Authority (EIPA) and the Ethiopian copyright and neighboring rights collective management society face operational and institutional constraints in collecting and distributing royalties. Furthermore, the system does not distinguish adequately between domestic and foreign works, creating challenges for equitable royalty collection.

4. Insufficient Licensing Framework

Article 38(2) of Proclamation No. 872/2014 empowers EIPA to determine licensing practices and fees. However, there are no detailed directives for implementing this provision, resulting in inconsistencies in licensing practices and undermining the enforcement of copyright law.

5. Impact on Local Art and Artists

The absence of robust royalty collection mechanisms for local works encourages broadcasters to prioritize foreign works, which often come with fewer financial obligations. This dynamic threatens the viability of Ethiopian art and undermines the economic rights of local artists.

6. Lack of International Harmonization

Ethiopia has yet to accede to key international treaties that provide a framework for protecting foreign works. Without these treaties, it is difficult to enforce royalty collection for international copyrights, further complicating the copyright system.^{17 18 19 20 21}

The aforementioned challenges necessitate a comprehensive examination of Ethiopia's legal, institutional, and operational frameworks. This study explores whether existing laws

¹⁷Not all sound recordings contain an underlying copyrighted song. Some musical compositions are in the public domain. Other sound recordings, such as nature recordings, do not contain musical compositions at all.

¹⁸ International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), at <http://www.wipo.int/clea/docs/en/wo/wo024en.htm> (Oct. 26, 1961).

¹⁹Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings and Ephemeral Recordings, 67 Fed. Reg. 45,239, 45,272 (July 8, 2002) (to be codified at 37 C.F.R. pt. 261) [hereinafter Register's Report].

²⁰International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations(RomeConvention),at<http://www.wipo.int/clea/docs/en/wo/wo024en.htm>(Oct.26,1961).

²¹ Council Directive No. 92/100, Nov. 19, 1992(European Commission).

effectively address the exploitation of copyrighted works by broadcast media, the mechanisms for royalty collection and distribution, and the role of the copyright society in enforcing economic rights. The findings aim to inform policy reforms that balance the interests of copyright holders and the broader public, thereby fostering a thriving creative industry in Ethiopia.

This study addresses the following key questions:

- Is the current legal and institutional framework adequate to protect copyrighted works from exploitation by broadcast media?
- How are royalties collected, and what are the mechanisms for determining licensing fees for radio and TV use of copyrighted works?
- Can Ethiopian copyright law effectively protect foreign works under the existing framework?
- Does Article 38(1) of Proclamation No. 872/2014 appropriately balance the interests of copyright holders and the use of protected works for commercial and non-commercial purposes?
- Is the Ethiopian copyright and neighboring rights collective management society capable of ensuring the economic rights of copyright holders through effective royalty collection and distribution?

1.3. Objective of the Study

Copy Right Infringement Undermines Innovation, Productivity and which slow economic growth in the Ethiopian art industry and can distort the development of art sector in the national and international level and it also undermines the rule of law, economy, culture and social security. Therefore, the study has general and specific objectives.

1.3.1. General Objective

The general objective is to explore the challenges that how the legal frame works are in a position to protect neighboring right violation by broadcast media in Ethiopia and also how institutional framework of the government are performing its institutional role on the protection of the infringement of neighboring right of the copyright owner by broadcast media and the role of the copyright society in Ethiopia and how is the copyright law support and assist the copyright society.

1.3.2. Specific Objective

To achieve the general objectives different specific objectives will be addressed. These specific objectives among others are:

1. To analyze the compatibility and applicability of Ethiopia's copyright and neighboring rights laws with internationally accepted principles and standards and to assess the effectiveness of national laws in addressing the exploitation of protected works by broadcast media.
2. To evaluate the role of the Ethiopian copyright and neighboring rights collective management society in protecting the rights of copyright holders and to identify the causes and levels of infringement of copyrighted works by broadcast media and to evaluate the remedies currently implemented by the copyright society.
3. To explore the challenges and prospects faced by the Ethiopian Intellectual Property Authority (EIPA) in enforcing copyright laws, with a focus on the institutional, financial, and technical constraints and to examine the system for collecting royalties, including the mechanisms for ensuring broadcast media pay royalties for foreign and local works.
4. To investigate how the lack of royalty collection mechanisms for local works encourages broadcast media to rely on foreign works, potentially disadvantaging Ethiopian artists and to distinguish between commercial and non-commercial exploitation of protected works by broadcast organizations, analyze the implications of royalty non-payment, and evaluate the role of the copyright society in addressing these challenges.
5. To analyze Proclamation No. 410/2004 and its amendments in protecting artistic and literary works and to assess the enforcement mechanisms provided under this proclamation by the Ethiopian Intellectual Property Office (established by Proclamation No. 320/2003) and to compare Ethiopia's collective copyright and neighboring rights administration practices with the provisions and guidelines of the World Intellectual Property Organization (WIPO), with the aim of identifying the essential elements for establishing an effective copyright society in Ethiopia.

1.4. Significance of the study

Globally, broadcast media, particularly television and various types of radio, have become a primary avenue for neighboring rights violations and copyright crimes. The inherent capabilities of broadcast media to disseminate extensive content have, at times, been exploited by copyright and neighboring rights violators who seek to use these platforms to advance music piracy. These violators often leverage the technical and operational features of broadcast media to obscure the sources of entertainment, complicating enforcement efforts.

Broadcast media play a significant role in engaging society with content heavily reliant on artistic and musical works. However, the exploitation of protected works has grown due to deregulation and advancements in technology. This study underscores the importance of addressing these challenges and offers several key contributions:

1. Judicial Guidance on Royalty Practices

The study provides critical insights that can assist courts and judges in resolving cases involving music royalty payments. By analyzing gaps in current practices, it offers a framework for handling disputes related to royalty fees for both commercial and non-commercial uses of protected works.

2. Legislative Improvements

This research highlights shortcomings in the current copyright proclamation, particularly regarding royalty practices and the distinction between commercial and non-commercial uses. It offers practical recommendations for lawmakers to amend the existing legal framework to ensure clarity and effective enforcement.

3. Strengthening Collective Management Systems

The paper identifies the need for a robust collective management system in Ethiopia. By proposing fair licensing practices and effective royalty collection mechanisms, it lays the foundation for a more equitable system that benefits copyright holders while fostering compliance among users.

4. Addressing Gaps in Royalty Exemptions

The study identifies specific gaps in the exceptions to the exclusive rights of copyright owners under the current proclamation. By addressing these omissions, it proposes

solutions that align with international best practices and the realities of Ethiopia's legal and institutional landscape.

5. Promoting Awareness and Compliance

By bringing attention to the risks and challenges associated with the exploitation of protected works by broadcast media, the study serves as a valuable resource for stakeholders, including policymakers, judicial authorities, and media organizations.

Ultimately, the research aims to contribute to the development of a fair and transparent copyright regime in Ethiopia, ensuring the rights of creators are upheld while fostering the growth and sustainability of the creative industry.

1.5. Scopes and limitations of the study

Scope of the Study

This study focuses on examining the infringement of protected works, particularly musical works, by broadcast media in Ethiopia and the role of the copyright society in addressing these issues. It critically analyzes the legal and institutional frameworks relevant to the exploitation of copyrighted works and highlights the economic and policy implications within the Ethiopian context.

The primary areas of investigation include:

- The advancement of exploitation of protected works by broadcast media.
- The operations and challenges of collective management organizations in Ethiopia.
- The prevalence of music piracy within broadcast media.

Limitation of the Study

- Lack of Functional Collecting Societies

Since the Ethiopian collecting society is not yet operational, the study lacks real case analyses that could provide empirical insights into the challenges faced by such organizations in enforcing copyright laws.

- Focus on Musical Works

While copyright law encompasses a broad range of intangible works—including literary, dramatic, and architectural works—this thesis is confined to musical works broadcasted

via radio and television. Other forms of copyright infringement are outside the scope of this study.

- Exclusion of Moral Rights

The research exclusively addresses the economic rights associated with musical works and does not delve into the moral rights of authors, such as the right to attribution and integrity.

- Geographic Limitation

The study is geographically restricted to Addis Ababa. The reasons for this limitation include Addis Ababa serves as a hub for broadcast media activities and experiences significant levels of audiovisual work infringement. Financial constraints limited the researcher's ability to expand the study to other regions. Infringement practices in Addis Ababa and other regions are considered to be similar, making the findings applicable to the broader national context.

- Comparative Analysis Constraint

The study does not aim to provide an exhaustive comparison of Ethiopia's legal system with those of all nations. Instead, it selectively examines practices in a few exemplary countries to provide context and insights.

- Scope of Research Tools

The research employs questionnaires distributed to selected broadcast media organizations situated in Addis Ababa. The data collected reflects the practices and perceptions of these entities, which may not fully represent the experiences of all stakeholders in Ethiopia's copyright ecosystem.

1.6. Hypothesis of the Study

The fast growth of the music sector in Ethiopia, with advancements in technology, has led to increased complexity in the broadcast media services. This growing complexity, however, also brings with it a higher risk of copyright violations, infringements, and other criminal activities that could threaten the sustainability of the music industry. The advancement of payment system technologies has further amplified the potential for misuse by broadcast and digital media outlets, which may exploit these systems, leading to greater violations.

The legal frameworks currently in place, including Proclamation No. 410/2004 on Copyright and Neighboring Rights Protection and its subsequent amendment by Proclamation No. 872/2014, aim to address copyright and neighboring rights violations, covering sound recordings and their public broadcasts in various settings such as retail outlets, restaurants, nightclubs, and through all forms of broadcast media including television, radio, and digital platforms. While these laws are aligned with internationally recognized standards, such as those advocated by the World Intellectual Property Organization (WIPO), they still present shortcomings in combating copyright and neighboring rights violations in Ethiopia.

In particular, the provisions within these laws remain insufficient due to their ineffective or arbitrary application by Ethiopian broadcast media (both TV and radio). This issue is likely to become more pronounced if the broadcast media sector undergoes liberalization or privatization, as individual media owners may not be as committed to enforcing copyright protections, thereby exacerbating the problem of infringement.

1.7. Literature Review

Copyright protects and covers all creations that are a product of the creative human mind, irrespective of their form or merit and the audience that it was destined for. This form of protection is immediate and requires no formal procedure is always required as long as the work is original. Neighboring rights, also known as rights neighboring to related to copyright form, three categories of people who are not technically authors of the work so creates and are performing artists, producers of phonograms, and those that are involved in television, radio and broadcasting.

Printing, broadcasting, recording, performing, translating or adaptation can be reproduced by their respective authors. Authors further own the right to financially exploit their work and prohibit unlawful uses of the same by others. Copyright and Neighboring Rights Protection plays an essential role in any developed and sophisticated society.

As previously mentioned, neighboring rights have three categories. They are performer's right, recording rights and broadcasting rights. Performers Rights are particularly designed

to protect performers like the musicians and actors, in their performances against unauthorized recording (rendering them illegal) or live transmission of their live performances and to guarantee adequate control over and remuneration for the exploitation of recordings of their performances.

Consent is required from all performers that are involved irrespective of their position, principal, lead or a supporting cast. Once such consent is given, it cannot be withdrawn. By law, where a sound recording of a performance has been made with the consent of a performer, the performer's consent is further required for any communication to the public, copying or issuing of that sound recording to public. Such rights can be enforced by the representatives of the performer after his/her death.

Broadcasting, has proven to be most efficient and the quickest way to disseminate information to the public at large. 'Broadcasting Rights' are those rights which have been duly conferred to broadcasting organizations such as the television, radio or other telecasting programs known as 'rights of broadcasting organizations.

A live performance by a singer is the original performance and a person from the audience records it and puts the audio on internet. Does this amount to broadcaster's reproduction rights? If yes, it will give great rights to broadcasting organizations to censor information under the pretext of protecting copyright in the work.

As the producer of an event, the owner of the Copyright is also the owner of all the rights and revenue that are the output of organization, creation and development of the event. This obviously includes media and broadcasting rights related thereto. Only the Copyright owner has the right to grant to others, the right to broadcast, communicate, make available and/or authorize the transmission, communication, broadcasting or making available to the public, the event so produced.

Since the concern of the research is to deal with Exploitations of protected works by broadcast media and the role of the copy right societies in Ethiopia. under the Proclamation No. 410/2004 Copyright and Neighboring Rights Protection Proclamation and

Proclamation No. 872/2014 Copyright and Neighboring Rights Protection (Amendment)
Proclamation in Ethiopia in light of the law and the practice.

Despite laws that regulate copyright and neighboring rights protection many Ethiopian broadcast media (TV, and all forms of radio broadcast media) ignore these laws to violate copy and neighboring right.

It is common to hear complain from individual Artists about their copyright and neighboring right violation by the broadcasting Medias with no reasonable compensation. The media policy of art work would also stipulate specific exclusions under which the broadcast media would be obliged to make payment for broadcasting or playing of music in any way.

According to article 7 of proclamation No.410/2007 , the author or owner of a work has the exclusive right to carry out or authorize the following acts in relation to the work : reproduction, translation, adoption arrangement or other transformation of the work, distribution of the original or a copy of the work to the public by sale or rental , importation of original or copy of the work ,public display of the original or a copy of the work, performance of the work , broadcasting of the work ,and other communication of work to the public.

Apart from definition of terms, the right created by copyright and the criminal sanctions it imposes in the event of infringement, the Ethiopian copy right law also regulates the limitations and exceptions imposed on rights holders. The major limitations and Exceptions are : a/ reproduction for teaching, b/ reproduction by libraries, archives, and similar institutions c/ quotations d/ reproduction, broadcasting and other communication to the public for information purpose, e/ reproduction and adoption of computer programs for personal use, f/ information for personal use g/importation for personal use g/reproduction for personal use, and h/ other reasons.

1.8. Methodology and Methods

This thesis adopts a doctrinal legal research methodology to analyze the relationship between neighboring right and broadcast medias obligation to pay royalty for the relevant collective management.

The writer has employed a qualitative and quantitative method in the course of the research. The research approach followed for the purpose of this paper is the deductive one. Accordingly, this methodology will be deployed to examine the legal regimes related to neighboring right for using protected works by broadcast media in the context of exploitation of copyrighted works for commercial and none commercial purpose and obligation to pay royalty. To this end, the research method will involve reference to, interpretation and the analysis of, relevant statutes and documents.

The writer has collected, analyzed and interpreted data's which collected from questioners and interview conducted by different stakeholders. Editorial policies of Broadcast Medias such as TV, radio, (FM) will be scrutinized in light of the mandatory provisions on royalty payment and also provisions of the Proclamation No. 410/2004 and proclamation No. 872/2014 with the mass media Proclamation No. 1238/2021, the FDRE constitution, the proclamation No. 414/2004 of the criminal code of Ethiopia will also be analyzed in line with copyright violation by.

Currently, there are Five categories of broadcast medias in Ethiopia :- a/ public or government broad Cast Medias, b/ private or commercial broadcast medias, c/ community broadcast Medias, d/ news agencies e/ social medias.

Among the five categories only two of them which are subject to the research :-

- 1/ public or government broad cast media and
- 2/ Private or commercial broadcast medias are subject to the research.

From public or government owned Medias only six of them three televisions and three radios are subject to the research and in the same talking from commercial or privately owned Medias only six of them, three television and three radios are subject of the research.

And Ethiopian intellectual property authority, Ethiopian Media professionals association , the Ethiopian media council, Ethiopian broadcasters association, Ethiopian copyright and neighboring rights collective management society (ECNRCMS), Ethiopian music copyright and neighboring right collective management society (EMCNRCMS) and Ethiopian musical related union. Those institutions are subject of the research. The writer has also made an endeavor using questionnaire as far as data collection concerned to achieve these objectives. The research would depend on the analytical method of both primary sources and secondary sources.

With regard to sample selection the method of purposive sampling was employed. According to this method, which belongs to the category of non-probability sampling techniques? Sample methods are selected on the bases of their knowledge, relationships and expertise regarding the research subject. With the case at hand sample members selected have relationship to the issue at hand. This access is expected to be of great use.

1.9. Organization of the study

The study comprises five chapters. Background and Objective of the research are outlined in the first Chapter, which describe significance of the study and questions to be addressed in this research. Chapter Two deals with international copyright legal frame works, views about regional cooperation in the field of copyright, national copyright legal frameworks are addressed under this chapter, and the third chapters discuss the general overviews of copyright collecting society, theoretical justification of copyright collecting society, Functions of copyright and related right collecting society and classification of copyright collecting society are seen under this chapter .Chapter four deals with exploitation of protected works by broadcast media, data analysis and presentation, the. Whereas Chapter Five illustrate the study conclusion and recommendations.

Chapter Two

2. Legal framework for the protection of related rights

2.1. International conventions in the field of related rights

As mentioned above, there are three "classical" international conventions in the field of the so-called neighboring rights:

- a) The International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention) of 1961;
- b) The International Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (the Phonograms Convention), of 1971;
- c) The Convention Relating to the Distribution of Programs -Carrying Signals Transmitted by Satellite (the Satellites Convention) of 1974.

To these Conventions should be added the 1996 WIPO Performances and Phonograms Treaty (WPPT), which provides for protection of performing artists in audio contexts (not audiovisual performers), and also phonogram producers.²²

As its name indicates, the Rome Convention provides for protection of all three categories of right-owners in the field of related rights, while the other two conventions provide for protection only of one category, namely phonogram producers and a special type of broadcasters, viz. operators of certain types of satellite transmissions.

As Ethiopia is presently not party to those Conventions they are left aside in the main body of this document. Instead, some attention is given to the World Trade Organization (WTO) because Ethiopia is presently negotiating its entry into that Organization which means that new intellectual property obligations will arise for the nation.

²² WIPO Copyright Treaty (WCT) (1996) *

2.2. The world trade organization

The TRIPS regime which was briefly mentioned above contains provisions also on the protection of copyright and related rights. In order to fully understand the TRIPS system and its place in the context of international intellectual property law it is necessary to give a short summary of the main features of the developments leading to the setting up of the world trade organization (WTO) and the adoption of the TRIPS Agreement. This is of special importance for Ethiopia when it enters the WTO.

2.3.1. The TRIPS Agreement

On December 15, 1993, the negotiations under the Uruguay Round in the framework of the general agreement on tariffs and trade (GATT) were concluded. One of the many areas of negotiations was intellectual property which had not before been under the GATT regime. The result of the negotiations in the field of intellectual property is contained in the above-mentioned agreement on trade-related aspects of intellectual property rights, including trade in counterfeit goods (generally called "TRIPS"). The Agreement was formally signed by 111 of the members of GATT at Marrakesh in Morocco on April 15, 1994, and entered into force on January 1, 1996.²³

The TRIPS Agreement contains a special regime for intellectual property which is partly self-contained, partly based on the contents of the conventions administered by WIPO, primarily the Paris and the Berne conventions and the Rome convention and also, in the industrial property field, the so-called Washington treaty on integrated circuits. The TRIPS regime consists of several elements, primarily

- Norms on the contents of the rights ("standards")
- Certain basic principles
- Enforcement
- dispute prevention and settlement
- Transitional arrangements, and
- Institutional arrangements.

2.3. Neighboring rights conventions

2.3.1 The Rome Convention

The Rome convention is often referred to as a pioneer convention in the sense that it - contrary to most other intellectual property conventions - was based on an effort to

²³ Agreement on trade –related aspects of intellectual property right January 1, 1996.

establish international regulations in a field where at that time little national legislation existed. Consequently, one of the main features of that convention is the impact it had on national

legislators rather than the number of accessions to the convention. The convention determines only the protection which a contracting State is obliged to grant in respect of beneficiaries from other contracting states. Its aim is thus to provide for an international protection and not to protect the country's own performing artists etc.

The principle of national treatment applies, which means that a contracting State is obliged to protect beneficiaries from other contracting States in the same manner as it protects its own beneficiaries.²⁴ This means that such foreign beneficiaries are assimilated to the national ones. Also, the convention provides for a certain minimum protection.²⁵ This means that the protection granted to foreign beneficiaries must not be below a certain level, which implies that those beneficiaries must be granted certain minimum rights. The principle of national treatment applies if certain criteria are met ("points of attachment").

In respect of performers contracting states shall grant national treatment if the performance takes place in another such state or the performance is incorporated in a phonogram which is protected under the convention or is included in a broadcast which is thus protected. Producers of phonograms shall enjoy national treatment if the producer is a national of another contracting State or the first fixation of the sounds was made in such a State or the phonogram was first published in another such State.

Finally, as regards broadcasters, national treatment shall be granted if the headquarters of the broadcasting organization is situated in another contracting State, or the broadcast is transmitted from a transmitter in such a State.²⁶

As regards broadcasting organizations, that they shall have the right to authorize or prohibit the rebroadcasting of their broadcasts, the recording of their broadcasts, the reproduction of recordings of their broadcasts (under certain conditions) and the communication to the

²⁴ Rome conventions on October 26, 1961 Article 2 (1)

²⁵ Ibid Article 7(1)

²⁶ Rome conventions on October 26, 1961 Article 7(1)

public, against payment, of television broadcasts.²⁷ The convention also contains a provision according to which an equitable remuneration shall be paid to the performers and/or phonogram producers if a phonogram published for commercial purposes is used directly for broadcasting or communication to the public.

The convention gives a possibility for states to provide for limitations to the rights, which limitations are similar to those under copyright law. The minimum period of protection is 20 years to be computed from the fixation of a phonogram or a performance, from the performance or the broadcast, as the case may be. There is also in the convention a limitation on the formalities which may be requested as a condition for protection of phonograms. Such formalities shall always be considered as fulfilled if published phonograms have a notice consisting of the letter P within a circle, the name of the right-owner and the year of the first publication.²⁸

2.3.2 The Phonograms Convention

The Phonograms Convention is a typical anti-piracy convention; it was established in order to create an efficient international legal instrument designed to combat piracy, which at the time when the Convention came into being was becoming an increasingly harmful problem.

A number of countries which wanted to improve the means to fight piracy were not able to adhere to the Rome Convention and thus a specialized convention like the Phonograms Convention was seen as the solution. The Contracting States are obliged to protect phonogram producers who are nationals of other Contracting States against the reproduction of their phonograms without their authorization and against the importation of such unauthorized reproductions if the reproduction or the importation is made for the purposes of distribution to the public. This protection must last at least 20 years from the first fixation of the phonogram.²⁹

²⁷ Ibid Article 13

²⁸ Ibid Article 14

²⁹ The international convention relating to stowaways, Brussels , 10th October 1957 Article 2

2.3.3 The Satellites Convention (Brussels Convention)

The Satellites Convention is structured somewhat differently from the other conventions in this field; it does not confer rights to the beneficiaries but contains an undertaking for the Contracting States to take adequate measures in order to prevent distribution on or from their territory of program carrying signals by any distributor for whom the signal is not intended.³⁰ The Convention has presently around 25 members and does not apply to so-called direct broadcasting satellites but only to other types of satellites (so-called "fixed-satellite services" where the signals go to a receiving earth station from where they are distributed further). The undertaking under the convention can be met in different ways, such as by administrative or penal law or by the granting of exclusive rights similar to copyright.

2.4. National copyright legal framework

The history of copyright law in Ethiopia in its modern sense was emerged with the introduction of printing machine in the 20th century even though the beneficiaries were not the authors.³¹ Translation from one language to another was started during the time of Atse Za'raYa'eqob (1434-1468) when Arabic old testaments was translated in to Ge'ez to enact law of kings/Fetha Negest while the other development is the translation of Ge'ez to Amharic during the reign of Atse Tewodros.³² But both translations were not covered by copyright because such works were considered as public property and for religious matters, translators did not claim authorship and ownership.

The 1863 is the year of the introduction of printing machine to Ethiopia even though, the issue of copyright unfunded still. Legislations from Yekatit 7, 1927, however, require that all printed works should contain the name of the author and publisher.³³

The FDRE Constitution of 1995 addresses the issue of intellectual property under article 40. According to article 40(1) of the FDRE Constitution, every Ethiopian citizen has the right to the ownership of private property. Unless prescribed otherwise by law on account

³⁰ Ibid

³¹ Sebel Demissew (2008), Historical development of copyright 111 Ethiopia, *African Intellectual Property Journal.VoLI* , No. 1, P.66.

³² Id

³³ Id

of public interest, this right shall include the right to acquire, to use and, in a manner compatible with the rights of other citizens, to dispose of such property by sale or bequest or to transfer it otherwise. The constitution tries to balance private interests with the public interest in the property.

In addition to the general concept of intellectual property under article 40, article 51 (19) deals with the power of the federal government to patent inventions and protect copyright. Article 55(2) (g) of the constitution under powers and functions of the house of peoples' representative's states that the house shall enact specific laws on the patents and copyrights. The FDRE criminal code of 2005 prohibits the intentional infringement of copyrighted works as provided under article 717 to 724. The code protects both moral and economic rights of copyright holders. Prohibitions of infringements of artistic and literary works are stated under article 721 of the Code.

Copyright and Neighboring Rights Protection Proclamation No.410/2004 was also enacted in 2004. This new proclamation has introduced new concepts and rights, widened the scope of copyright and related rights, and provided a better mechanism of enforcement and protection of copyright. Copyright right Proclamation on copyright recognizes audiovisual under Art. 2(1) as one of economic right subsisting in a work where by the producer can get express protection from transgression of his work. As can be seen, it is defined from the perspective of the rights of the producer as it is based on the bundle of the producer economic and moral rights in his work that are provided under Art.7 and 8 of such copyright Proclamation.

The works of productions could be in the form literary, scientific and artistic reduced in to audiovisual works. As specified under the proclamation on Ethiopian copyright law the purpose of protection of audiovisual works as part of copyright is to promote the cultural, scientific, technological development of Ethiopia.³⁴

Similarly, copyright law in Ethiopia has the public purpose in that to rewarding authors or producer as well as to benefit society out of the work.³⁵ Thus it is possible to encourage the

³⁴ Balew Mersha and G/hiwot Hadishu Teaching Material on intellectual property (unpublished) Justice and legal system research institute ,Addis Ababa , Ethiopia p67

³⁵ Copyright law Supra note 5 it's the preamble clearly provide the purpose is to promote such development

creators of the work and produce useful to the society. When we see the preamble of the copyright proclamation as the justification of why copyright protection, it is because of the role of those works to give more emphasis, bringing about overall change that protection is extended on audiovisual works. Moreover, it is obvious that the preamble of any law has an implication in the interpretation of many cases. The Ethiopian copyright law preamble is also in line with such reality. In addition, “literary, artistic and similar creative works derive in audiovisuals works have a major role to the cultural, social, economic, scientific and technological development of Ethiopia.”³⁶

³⁶ Teaching material on intellectual property Supra note 42

Chapter Three

3.1. Historical developments of copyright collecting societies

Copyright has been managed collectively since the late 1700s and frequently claimed that it was started in France in 1777, in the field of theatre, with dramatic and literary works.³⁷ The first of such organization was *Society des Auteurs et Compositeurs Dramatiques* (SACD), created in 1777 in France by playwrights, to collect fees from theatres that had refused to pay them for the use of their plays, and *Society des Auteurs, Compositeurs et Edituers des Musique* (SACEM), formed in 1851 by composers and music publishers, to collect money for the live performance of music in cafes, for the same reason.³⁸ The story which is considered as a beginning point for establishment of copyright collecting societies in France is described by Collsoc:³⁹ The French example was soon followed, first in other parts of Europe, then elsewhere- Today there is an international network of copyright collecting societies in more than 100 countries.⁴⁰

The development of related rights' collecting societies- societies established to collectively administer neighboring rights has recent history compared with copyright collecting societies and the main reason for that is absences of any statutory support for neighboring right claims in most jurisdictions.⁴¹ At international level, neighboring rights has been legally recognized since the enactment of the Rome convention, 1961, which has also provided the base from which most national neighboring rights legislations have developed.⁴² The earliest, phonographic performance limited (PPL), was formed in 1935 after British courts in a landmark decision *Gramophone Co. Ltd. v. Carwardine* recognized record producers rights for the first time.⁴³

³⁷ Ibid

³⁸ Martin Kretschmer, cited above at note 5, p8

³⁹ United Nations Education, Scientific and Cultural Organization (UNESCO), the ABC of copyright, (2010)(<http://www.unesco.org/culture/copyright>) last visited august 15,2012, p74.

⁴⁰ WIPO and IFRRO, cited above at note 5, p10

⁴¹ Paul Berry, Introduction to Collective Management of Copyright and Related Rights: a regional approach, (http://www.wipo.int/meetings/en/details.jsp?meeting_id=3662), last visited on July 24,2012

⁴² Ibid

⁴³ Ibid

3.2. Theoretical justifications of copyright collecting society

The main tasks performed by copy right collecting societies of various nations are monitoring where, when and by whom works are being used; negotiating with users or their representatives; granting licenses against appropriate remuneration and under sound conditions; collecting remuneration; and distributing it to rights holders.⁴⁴

The rationales claimed to justify evolution of copyright collecting society is basically based on the theory that they constitute an efficient way of organizing the lawful exploitation of works in those fields where individual licensing would prove impossible or impractical. And, it is certainly cheaper to share the financial expenses of negotiation, supervision and collection of royalties among the greatest possible number of parties. Specifically, incapacity of owners of copy right and related rights to effectively administer their rights and transaction cost of the public as well as the owners are the frequently forwarded rationales for emergence of copy right collecting societies.

3.2.1. Incapacity to effectively administer their rights

The general justification raised under this theory is that collecting societies came in to existence in cases where individual management of copyright is either impracticable or impossible, and copyright holders established professional organizations to look after their rights.⁴⁵

This theoretical view thus underlies the practical impossibility/ failure of copyright holders to administer their rights is the very reason behind the evolution of copyright collecting societies and hence the main task of copyright collecting societies is to protect and realize the interests of its members. Establishment of collecting societies, thus, is justifiable only if it is proved that the individual right holders could not individually administer their rights.

⁴⁴ WIPO and IFRRO, cited above at note 6, p12

⁴⁵ Christopher Heath and Kung-Chung Liu (ed), Copyright Law and the Information Society in Asia (2007), p99.

3.2.2. Transaction cost theory

The emergence of collecting societies as organization is to reduce the costs that copyright and related right holders may incur while they negotiate and conclude an agreement individually with users of their works.²³³ besides, creating easy and less costly access of copyright-protected works for users is another element of the theory.⁴⁶ In the absence of collecting society from which the user could legally acquire copyright-protected works, a prospective user would face unnecessary transaction costs.

Therefore, according to this theory, the existence of copyright collecting societies enables copyright owners to provide their works to users with less cost and helps users to access the creative works with lower transaction costs.⁴⁷

Collecting societies reduce the transaction costs by establishing a network between potential users and copyright owners thereby consolidating otherwise duplicated efforts by individual rights owners on monitoring infringement and reducing the number of negotiations required between users and rights owners. Such a solution offers economic benefits because users benefit from lower costs of access to a wider range of copyrighted works; while copyright holders also benefit from lower costs as well as market access.

3.3. Functions collecting societies

All sorts of copyright collecting societies have four main functions; viz: acquisition of rights from right-owners; licensing of rights to buyers; collection of fees from users for the uses made; and distribution of fees collected to the right-owners.⁴⁸

In addition to these principal functions, collecting societies undertake other related activities such as ‘improving and defending the base of rights the organization manages through action for legislative change and court action to establish precedents in law; enforcement by court action of the rights managed where infringement or piracy occurs;

⁴⁶ UNESCO, Cited above at note 28, p74

⁴⁷ KEA European affairs, cited above at note 10, p8

⁴⁸ Paul Berry, Cited above at note 31, p4

information and education related to intellectual property and the rights managed; social or cultural action in the industry concerned'.⁴⁹

3.3.1 Acquisition of rights

By acquisition of rights, it is to mean the process whereby the right holders transfer their rights to copyright collecting society and the latter gets legitimacy to manage such rights on behalf of the copyright owner. The process of acquisition of rights is often to be accomplished at the time of formation, though it also proceeds after its formation for new works⁵⁰.

According to the guideline of collecting societies prepared by WIPO, There are six fundamental questions to be answered by the right holders while they decide to transfer their rights to the collecting society.⁵¹

1) whether the rights will be transferred by way of assignment and, therefore, whether the organization will have exclusive or nonexclusive management of the rights and works
2) whether the grant will be for one or more specific types of works 3) Whether one right only or more than one right will be managed 4) What the geographical range of the organization's mandate will be: for the world or for a specifically defined territory 5) Whether the rights are assigned for the full term of protection granted by legislation for the rights assigned or a lesser defined period 6) Whether the organization will represent all the holders of a particular right or only a particular group holding such rights (for example, producers and performing artists or producers only, where neighboring rights are concerned).

What one can infer from the above stated questions is that the process of acquisition of rights is not an easy task since it all depends on the right holders' decision especially when the copyright legislation leaves such process to be determined by the free will of copyright and related holders.

⁴⁹ **Ang** Kwee Tiang, collective management organizations, their role, functions and structure, (www.wipo.com) last visited on August 10, 2012.

⁵⁰ Berry, Cited ab

⁵¹ Id, p5

3.3.2 Licensing of rights

Licensing is an agreement between collecting society and users which sets the terms and the price to be paid for a particular use of copyright-protected works.⁵² Such agreement may also conclude between individual copyright holders and users if the collecting society is not granted exclusive right to licenses certain copyright-protected works.

There are two principal licensing techniques applied by collecting societies, i.e. title by title licensing and blanket licensing.⁵³

1) Title by title licensing

It is said that title by title licensing is the most accurate and precise method of licensing and in line with the objectives of copyright legislation which is to compensate authors individually in direct proportion to the actual use of their works.⁵⁴ This technique is often used for licensing reproduction rights in musical works for sound recordings (mechanical licensing), film and television programs and advertising (synchronization rights licensing) and literary works for performance in theatres, among others.⁵⁵

Though the principle is that title by title licensing is freely negotiated between the copyright collecting society and users, there are also exceptional circumstances where title by title licensing becomes involuntary.

Mr. Paul Berry has identified that there are three techniques developed by legislators to enact involuntary or compulsory licensing scheme: first, the actual license is contained in the copyright or neighboring right statutes and is termed a "statutory license"; second, the license terms or rates are subject to review and approval by a Court or Tribunal before they are effective; third, a right to "equitable remuneration" may be substituted for the rights to authorize and to determine the conditions of use as in neighboring rights legislation.⁵⁶

⁵² Paul Berry, cited above at note 31, p9

⁵³ Ibid

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Ibid

2) Blanket licensing

Unlike title-by-title technique of licensing, blanket licensing allows the license holder to use all the Works in a collecting society's catalogue in return for paying a set of fees. The fee to be paid by licensee to the collecting societies⁵⁷ can be tied to the actual use made of the repertoire or to other factors (such as gross revenues of the licensee) which have only an indirect link to use, or none at all.⁵⁸ This indicates that the users who acquire blanket license from the collective society are not obliged to pay fees in advance. The question which should be raised here is that how does the society determine such Tariffs or fees, and what are the points which the society should consider to determine the amount of the tariffs. WIPO, in its publication states the general principles as to the determination of tariffs and the factors to be considered in determining the same which have got international acceptance one of which is that the tariff is calculated in the form of a percentage of the receipts (also known as percentage rule).⁵⁹ As per this principle, if all the works used belong to the copyright repertoire, the user generally pays about 10% of his receipts.⁶⁰ However, if the works are not the main source of interest for the public, it is not always necessary to apply the percentage rule. The society can convert the percentage into a flat charge or lump sum using criteria and parameters which enable an indirect connection to be established with the receipts that it is estimated were obtained partly; and the flat charge must follow the cost of living by being linked to the price index.⁶¹ With respect to the factors that should be taken in to account in determining tariffs, WIPO puts the general standard; i.e. the society should determine the tariffs by reconciling both the interest of copyright holders and users.

Generally The ways which could be used to determine tariffs are three: first, it could be determined by individual negotiation of the collective society and users; second, if there is association of users, it could be determined by collective negotiation of the collective society and association of users which could be made at national or regional or international

⁵⁷ International Confederation of Societies of Authors and Composers (ICSAC) (<http://www.ecaproject.org/archive/fileadmin/ecapII/pdf/en/activities/national/malaysia/s>), last visited on august 12,2012.

⁵⁸ Paul Berry, cited above at note 31, p 10

⁵⁹ UNESCO, Cited above at note 28, p 24

⁶⁰ Ibid⁷⁷ Ibid

⁶¹ Ibid⁷⁷ Ibid

level; the third , in special cases, the tariff is given in the law- This will be the case when the legislator provides for a compulsory license with a right to remuneration which leaves the interested parties little or no freedom to negotiate rates.⁶²

This type of license is universally used for licensing performing rights to the broadcast industry.²⁶⁴ However; it is worth to mention that blanket licensing has also its own pitfalls. It makes the distribution process very complex and expensive because it is difficult to assess the uses of particular work out of the works listed in the blanket license and distribute among the members of the collecting society.⁶³

3.3.3. Collection of royalties

Such role of collecting societies may extend to foreign users in addition to the domestic users if it could conclude reciprocal agreement with other nations' collecting societies. In other term, the source of fees to be collected by collecting societies can be domestic and foreign. Domestic royalties are collected from the users licensed by the collecting societies.

The amount to be collected from domestic users may also include the fees of foreign works where the collecting societies have made reciprocal agreement with foreign collecting societies. Thus, the royalties that the collecting society is expected to collect are both the fees for the national copyright- protected works and other foreign copy right- protected works which of course have got legal protection by the national legal regime⁶⁴ There are two fundamental principles that apply to foreign royalty income: first, a foreign society will only pay for works and right holders for which it have received acceptable documentation; second, foreign society's statutes, distribution rules and procedures will apply to determine whether a payment will be made and the amount.⁶⁵

Finally, in relation to agreement of collecting societies of different nations, it has to be noted that their relationship depends on their bilateral agreement and there is no any sort

⁶² Ibid

⁶³ ICSAC, cited above at note 73, p 30

⁶⁴ Such distinction- royalties of domestic and foreign works - is necessary for the reason that collecting society will pay proportionally to foreign and national copy right owners. Paul Berry, cited above at note 31, p11

⁶⁵ Id , p14

of international standard or legal instrument to regulate such cooperation of collecting societies. It all depends on principle of cooperation and reciprocal representation agreement of collecting societies.

3.3.4 Distribution of royalties

In order to make the distribution accurate and fair, collecting society must distribute the money it has collected to copyrighted-works, right holders, and actual uses made.⁶⁶ The collective societies distribute remuneration to its member organizations representing authors and publishers; and it is generally left to the rights holders' associations to decide on the criteria for distribution.⁶⁷ Authors usually have grant schemes and may fund common activities. Publishers combine data on market share and pay the remuneration individually to publishers.⁶⁸

⁶⁶ Id ,p15

⁶⁷ Ibid

⁶⁸ Ibid

Chapter Four

4.1.Exploitation of protected works by broadcast media

Broadcast Media has served as a powerful instrument to Entertain, inform and promote a range of democratic value and to boost the development agenda. Furthermore, Media provides public interest programming that contributes to strengthening the countries democracy and building human right and guarantees an environment for free and fair expression of views of citizens.

Ethiopia's radio and television sector has gone a long way to raise entertainment contents as demonstrated by the large and diverse audiences. Media industry in Ethiopia has developed specific business models that exploit audiovisual works for commercial purposes. It is known that there is no licensing system that enables broadcasters to control the exploitation or illegal usage of audiovisual works in their program.

Furthermore, no royalty payment at all for any of audiovisual works in Ethiopian broadcast media. Specially in FM radio stations for the use of musical works, musical works for advertising purposes, narratives, instrumental music's and even in television programs we could see that so many music contests the so called Idol shows performed live with million birr award , video clips, movies, dramas, theatrical arts, video clips for advertisement purposes and orchestrated musical works have no royalty payment and there is no entity or collective society to enforce the royalty in accordance to the law.

To sum up 100 % local and international music and 100 % local made movies and films produced abroad, by translating in to Amharic from different languages are illegally transmitted on broadcast media without paying any royalty fee to any of the copyright holder. So those points are factual information's on the current state of Exploitation of audiovisual works by broadcast media.

Only the copyright owner has the right to grant to others, the right to broadcast, communicate, make available and/or authorize the transmission, communication, broadcasting or making available to the public, the event so produced.

It is common to hear complain from individual artists about their copyright and neighboring right violation by the broadcasting medias with no remuneration for the right holders at all. The media policy of the art work would also stipulates specific exclusions under which the broadcast media would be obliged to make payment for broadcasting or playing of audiovisual works.

According to article 7 of proclamation No.410/2007 , the author or owner of a work has the exclusive right to carry out or authorize the following acts in relation to the work :
Reproduction, Translation, Adoption arrangement or other transformation of the work, distribution of the original or a copy of the work to the public by sale or rental , importation of original or copy of the work ,public display of the original or a copy of the work, performance of the work , broadcasting of the work ,and other communication of work to the public.

Apart from definition of terms, the right created by copyright and the criminal sanctions it imposes in the event of infringement, the Ethiopian copy right law also regulates the limitations and exceptions imposed on rights holders. The major limitations and Exceptions are : a/ reproduction for teaching, b/ reproduction by libraries, archives, and similar institutions c/ quotations d/ reproduction, broadcasting and other communication to the public for information purpose, e/ reproduction and adoption of computer programs for personal use, f/ information for personal use g/importation for personal use g/reproduction for personal use, and h/ other reasons.

4.2 Profile of the respondent's questionnaires distributed

Table 1: Number of respondents

No	Particulars	Respondents	
		No	%
1	Private Radio Stations	3	0.3%
2	Private Television Stations	3	0.3%
3	Government owned Radio Stations	3	0.3%
4	Government owned Television Stations	3	0.3%
5	Ethiopian Intellectual Property Authority	1	0.1%
6	Ethiopian Media Council	1	0.1%
7	Ethiopian Music copyright and neighboring right Collective Management Organization	1	0.1%
8	Ethiopian Media Professional Association	1	0.1%
9	Ethiopian Copyright and Neighboring Right Collective Management Society	1	0.1%
10	Ethiopian Musicians Association	1	0.1%
	TOTAL	18	100%

The table indicates the composition of the respondents. As it is easy to discern from the table, the respondents are from different institutions having different backgrounds, roles and responsibilities in relation to copyrighted works. This creates good ground or potential to apprehend the issue of audiovisual work in the diversified manner. As it can be discerned from the table, the respondents can generally be categorized into three broad groups though not put in order in the table. Each group is constituted with different groups of respondents.

The first category comprises the different pressure groups who are consistently echoing their sound to use the public original audiovisual works and combat the illicit reproduction and distribution of audiovisual works. These are directly or indirectly victims of the existing gross violation of the copyright law and are many in number. Ethiopian copyright and neighboring right Collective Management Organization. Ethiopian Music Copyright and Neighboring Right Collective Management Society. Ethiopian Musicians Association.

These are the main role players in the campaign against Exploitation of protected works by broadcast and more generally for observance of the copyright law in the country. About 30% of the questionnaires were distributed to these groups of respondents due to the stake they have in the subject matter under consideration.

The second category of respondents consists of Concerning organs for the copyright law infringement and regulatory bodies. Ethiopian Intellectual Property Authority, Ethiopian Media Council, Ethiopian Media Professional Association are included in this group. These play significant role in fighting the illegal exploitation of protected audiovisual works and They have crucial role in giving effect to the copyright law of the country including the law dealing with the copyrighted work by broadcast media and in deterring future infringements.

These groups of respondents are presumed to have high legal knowledge with regard to the issue of copyrighted a works and exploitations of same as they are very close to the subject. The number of questionnaires distributed to these categories of respondents are about 30% from which the Ethiopian Intellectual Property Authority take the lion's share .This is due to the special and at times first in time role the Authority play in the area which includes Awareness creation, organizing Collective Management Organization, approving the royalty payment fee and controlling the overview of copyright and neighboring right in Ethiopian.

The third category of respondents are consisting of Private Radio Stations, private television stations, government owned Radio stations, Government owned television stations. These groups of respondents are mainly known for, knowingly or unknowingly, grossly exploiting copyrighted audiovisual works.

That is the reason for the writer to distribute large number of the questionnaires as compared to the other stakeholders. Totally, 18 questionnaires were distributed to private broadcasters and government owned broadcasters taking 6 samples from each broadcast medias. This group basically refers to the Ethiopian Broadcast Corporation. (hereinafter "EBC") and FM Addis 97.1 FM, Fana Broadcasting Corporate (hereinafter FBC), Fana FM 98.1, Walta media and communication (hereinafter Walta TV), Addis Walta FM Radio FM 105.3 Private Owned Broadcasters taking 6 samples from each broadcast media. This

group basically refers EBS TV, ARTS TV, Asham TV and Ahadu Radio FM 94.3, Arada FM radio 95.1 and Sheger FM 102.1 about twelve questionnaires were distributed to different stakeholders in those broadcast media. Totally, this category comprises about 60 % of the total respondents.

4.3. Response of respondents in relation to audiovisual infringement

	Part one: (Question for all respondent)			
No	Particulars	Yes	No	I Do not Know
1	Is the existing copyright law sufficient to enforce royalty payment on Broadcast Media	40%	50%	10%
2	Is The Ethiopian Intellectual Property Authority (EIPA) in a position to enforce royalty collection on Broadcast Media.	20%	75%	5%
3	Is it possible to create copyright protection and collect royalty on foreign copyrighted works in Ethiopia?	0%	75%	25%
4	Is Music Idol shows Which are Broadcasted on TV stations free from royalty.	80%	10%	10%
5	Is foregone movies translated to Amharic and broadcasted on TV are free from royalty.	5%	75%	20%
6	Is collective management society in Ethiopia is in a position to collect Royalty from Radio and TV.	20%	70%	10%
7	Is there possible solution to curb the exploitation of protected works by broadcast media?	80%	0%	20%
8	Is there any the fair control price adopted for royalty per each Audiovisual work broadcasted on Radio and TV in Ethiopia?	60%	40%	0%

9	Is there any measurement for commercial use of copyrighted work and noncommercial use of copyrighted work by Radio or TV Station?	0%	100%	0%
10	Is there victims and beneficiaries of infringement of audiovisual works by broadcast media	100%	0%	0%
	Part Two:(Questions only for media Respondent)			
1	Is there any mandatory provision on the Editorial policy of your Station which Refers about Royalty payment?	20%	40%	50%
2	Is the outsourced producers are bound to pay royalty.	60%	30%	10%
3	Is more than 10 Audiovisual works are broadcasted per day on your Radio or TV Station?	100%	0%	0%
4	do you have more than One channel on your Radio or TV Station?	80%	20%	0%
5	Is there possible solution would you propose to curb the infringement of the audiovisual works by broadcast media?	95%	0%	5%

As it can be easily seen from the table, the questions are classified into two categories. The first 10 questions were commonly posed to all of the respondents. And the remaining 5 questions were asked to broadcast medias specifically radio station and television station. In order to make what question was posed to whom in the second part; the writer indicated it in parenthesis at the end of each question. The general purpose of the questionnaires is to assess the level of knowledge of the respondents in respect to the copyright law of the country governing audiovisual works and their appreciation of the existing wide-range of exploitation of the works, and the remedies they suggest.

The questions and the response of the respondents, the first question deals with the existing copyright law, and sufficiency on enforcement of royalty collection from broadcast media in Ethiopia. In this respect, overwhelming majority of the respondents has sufficient knowledge. It is only 50% respondent do agree and 40% of the respondents do not agree and 10% of the respondent are mostly from Broadcast Medias, The Mass Media Associations and Media Councils who do not know respectively.

The second question is about the Institutional role of the Ethiopian Intellectual Property Authority on the enforcement of royalty collection from broadcast medias, to that one provided in the table. 20% do agree including from the broadcasters and mass media associations and council on the other hand disagree and 75% do not agree and the fact that audiovisual work includes music and movies was in particular an element which the 5% do not know or disagree.

The third deals with the possibility of royalty collection from foregone audio visual work by the existing copyright law and the knowledge of the respondents about foregone works of audiovisual works and royalty collection in Ethiopia it is only 0% of the respondents that do not know this fact. The majority of these respondents comprise the broadcasters from radio, mass media council and association and intellectual property authority except some radio and TV Stations. About 75% on the other hand disagree with this. The main argument forwarded by these respondents who are mainly from the broadcasters and association and the council is that this does not always hold true. But about 25% do not have clear information with respect to this question.

The fourth question is assessing the knowledge of the respondents to the effect IDOL Shows which broadcasted on TV free from Royalty payment. In this regard, it is only 10% of the respondents from Radio and TV Stations who replied that they have no knowledge about it and 10% of the respondent does not agree on the issue and the remaining 80% know or suppose so.

The fifth question examines the foregone movies which are translated to Amharic and broadcasted on TV and royalty collection from such copyrighted work and level of understanding of the respondents pertaining to the issue. With respect to this question, while 5% of the respondents mostly from the TV agree for the royalty free, about 75% of

the respondents most of them do agree for royalty payment and 20% do not have sufficient knowledge on the issue.

Question 6 is deals with the capability of collective management society on the royalty collection on broadcast the respondents hold similar opinion in respect to this question also except that about 20% agree on the performance of collection of royalty and 10% of the respondents who do not know about the capacity of the CMO and 70% of respondent based on the position of Ethiopian copyright laws and position of CMO that it does not perform the protection of royalty in Ethiopia.

The seventh question is concerned to testing the knowledge of the respondents in respect to the editorial policies of the broadcasters whether there is mandatory provision concerning to royalty payment. Surprisingly, only 80 % have no mandatory provision on the issue and 0% of respondent do not agree and 20% of the respondent do not have sufficient knowledge about this fact.

The eighth question scrutinizes the outsourced medias on the duty to pay royalty. Surprisingly 60% of the respondent agree on the payment of royalty by outsourced program producers and 40 % do not agree on the royalty payment by outsourced producers, and 0% or there is no any respondent who do not know about the issue and all the respondents has the understanding on the issue.

The Ninth Question is scrutinized what is the measurement of commercial and none commercial use and commercial use of audio visual work by broadcast media. all the respondents agree that there is no measurement for such issue on the royalty payment and 100% of them do not know

The final questioner for the first part is that victims and beneficiaries of exploitation of protected works by broadcast media. Surprisingly 100% and all the respondents do agree with the victims and beneficiaries of the exploitation protected works by broadcast media.

Let's now direct our attention to the second group of questions which are posed to some category of the respondents. In this regard, the first question assesses the knowledge of the respondents as to authorization is a requirement to broadcast a certain audiovisual work such as audio music, movies and musical clips.

The first question is only associated with media houses. If there is any mandatory provision on the Editorial policy which refers about Royalty payment. Under these questions 20% of the respondent do agree on having royalty on their editorial policy and 40% do not agree on having mandatory royalty provision on their editorial policy and also 50% of the respondent do not know and refer about the issue of royalty on their editorial policy.

The second question is only designed for the outsourced programmers to pay royalty. Under this point 60% of the respondent do agree on the outsourced producer's royalty payment and 30% of the respondent do not agree on the outsourced program producer's royalty payment and 10% of the respondent do not know about the issue of royalty payment by broadcast media.

The third question is scrutinized that Is there more than 10 Audiovisual works are broadcasted per day on each broadcast medias. Surprisingly all the respondents 100% knows that there are more than 10 audiovisual work are broadcasted by their radio or Television.

This fourth question is related on the number of channels do radio or Television have. Under this question 80% of the respondent have more than two and above channels and 20 % of the respondent do not have more than one channel on their station.

Lastly, the fifth and the final question for the second part is related to the solution which curb the exploitation of copyrighted works by broadcast media. Under this question 95% of the respondent do know about the possible solutions for such problems and 5% of the respondent do not know about this fact and issue.

4.4 Copyright infringement and remedies under the law

When we say remedy it is to refer to a means of enforcing rights or preventing or redressing a wrong committed against oneself through legal or equitable relief.⁶⁹ The remedies available to the claimant include both civil remedies and criminal penalties depending on the acts committed and relief claimed by the person to do under the law.⁷⁰ Since the purpose of civil litigation is to provide relief for an injury one person has sustained at the hands of

⁶⁹ Bryan A. Garner *supra* note 252 P. 1296

⁷⁰ David Bainbridge, *Supra* Note 40, P. 143

another person,⁷¹ the statement of claim for remedies must state the relief demanded by the plaintiff.⁷² In the same token, the criminal case is instituted where one who entitled to bring criminal action is convinced that “there are sufficient grounds for prosecuting the accused.”⁷³ A copyright owner can take legal action against any person who infringes the copyright in the work.⁷⁴ Copyright violation, if proved gives rise to a range of remedies.³⁵³

4.5 Types of remedies

As it is stated here in above, the remedies available to enforce the right of plaintiff are provisional measures, civil, criminal and border measure. The provisional measure deals with prompt action in order prevent an infringement of right from occurring specifically indulging in to the cannel commerce of goods. In addition Civil remedies involve injunctive relief, to restrain the defendant from continuation copying and dealing with the work during law suit and from copying the work for the future awarding of material and moral damage if decided in favor of plaintiff⁷⁵ Criminal penalty involves the prosecution of a person involved in commercially dealing with infringed works. Under copyright and neighboring rights protection proclamation No. 410/2004, remedies available to the plaintiff are provided under its articles 33-36.

⁷¹ Robert Allen Sedler, Ethiopian Civil Procedure, (1968) P. 59

⁷² The Civil Procedure Code , Supra note 292, Art 224 (1)

⁷³ Criminal Procedure Code of the Empire of Ethiopia, Proclamation No. 185/1961, Negarit Gazeta 21st year No. 7, Art 40 (1)

⁷⁴ Takele Seboka, Supra Note 47, P.97

⁷⁵ David V.Rodack, Remedies for Copyright Infringement, available at <http://www.tms.org/pubs/journal>, P. 2

Chapter Five

5. Findings, Conclusion and Recommendation

5.1. Findings of the Research

5.1.1. Findings on Legal Frameworks

- Insufficient legal and regulatory support for copyright protection
- Lack of fair practice regulation and penalty for exploitation
- Lack of international copyright legal framework like Bern convention, Rome convention, WTO etc.

5.1.2. Findings on Awareness

- Lack of Awareness on media owners, producers, DJs, Advertisement Agencies, Industry Professionals, copyright owners, etc.
- This results no royalty payment for music contest in television the so-called IDOL shows, cover music, video clips, orchestrated music, domestic movies, foreign movies translated to Amharic, etc.
- It is common to play music in Radio and Television which is not considered by the broadcasters as a copyright infringement and this shows 100% exploitation of protected works by broadcast medias in Ethiopia.

5.1.3. Findings on collective management organization

- Lack of structured system for acquisition, licensing, collection and distribution of royalty.
- Issues with accountant ability and lack of transparency on distribution of royalty.
- Lack of finance and sufficient fund from government.
- Lack of awareness on copyright owners and art professionals.
- Lack of cooperation and unity with art professionals.
- Lack of technical, professional, institutional assistance from EIPA
- Lack of skilled and capable manpower's, technological and institutional challenges.
- Lack of financial and technical capacity of the copyright holders.

5.1. 4. Finding on Government

- Many policymakers, law makers, government officials, lack of understanding of copyright dynamics and regulatory support for copyright.
- Lack of recognition for creative work as valuable intellectual output.
- Lack of Understanding on how copyright bring valuable effect on local economy and job market.
- Reluctance to view copyright as valuable asset for loans.
- Insufficient funding and support for art community.

5.2. Conclusion

Ethiopia has made efforts to modernize its copyright laws, starting with the Civil Code of 1960 and subsequent enactments like the Copyright and Neighboring Rights Proclamation No. 410/2004 and its amendment in 2007. These laws aim to protect artistic and literary works while providing mechanisms for enforcement. These shortcomings hinder the effective administration of copyright and discourage investment and creativity in Ethiopia's cultural industries. However, several gaps remain:

- Ethiopia has not ratified key international copyright treaties such as the Berne Convention, Rome Convention, and WTO agreements, limiting the scope of protection for Ethiopian copyright holders internationally.
- The current legal framework lacks specific provisions distinguishing commercial and non-commercial uses of audiovisual works, which contributes to widespread copyright violations.
- The Ethiopian copyright law does not comprehensively address compulsory licensing or provide mechanisms to promote fair intellectual property practices.
- Collective management organizations remain underdeveloped, primarily due to the absence of a dedicated legal regime, insufficient government support, and a lack of technological and institutional capacity.

5.3. Recommendations

Based on the findings of the Research and the conclusion drawn above the writer would like to recommend the Following

5.3.1. Awareness Creation

Continuous awareness campaigns should be conducted to educate stakeholders, including media owners, copyright holders, policymakers, and the general public. These campaigns should highlight the economic and social benefits of copyright while emphasizing the dangers of failing to protect intellectual property. Raising awareness is essential to foster positive action towards the protection of copyrights and understanding their significance.

5.3.2. Strengthening Legal Frameworks

The Ethiopian Intellectual Property Authority (EIPA) should take the initiative to develop regulations and directives that facilitate the enforcement of copyright laws. This includes promoting public understanding of copyright issues and encouraging the establishment of a collective management society.

Amendments to the Ethiopian copyright law are also necessary. These amendments should define the boundaries of commercial and non-commercial uses of audiovisual works, establish penalties for misuse of exclusive rights, and expand compulsory licensing provisions to cover performance, public display, and derivative works.

5.3.3. Ratifying International Treaties

Ethiopia must expedite the ratification of major international intellectual property treaties. Joining agreements such as the Berne Convention, Rome Convention, TRIPs Agreement, WCT, WPPT, and WTO agreements would extend protections for Ethiopian copyright holders internationally and foster stronger relationships with other nations emphasizing copyright protection. This move would provide a framework for fair economic rewards and international collaboration.

5.3.4. Enhancing Collective Management Systems

To establish and operate effective collective management organizations (CMOs), Ethiopia needs a specialized legal framework that supports these entities. Equipping CMOs with

modern technological tools will address licensing and royalty distribution challenges. Furthermore, government support through legally mandated institutions is crucial for providing technical and financial assistance to CMOs, ensuring their successful operation.

5.3.5. Government Accountability

The Ethiopian government should ensure that all broadcasters, including state-owned media, comply with royalty payment regulations. This would set a precedent for private entities and foster a culture of accountability. Additionally, allocating sufficient funding to support CMOs and related initiatives is vital for sustaining the copyright ecosystem.

5.3.6. Promoting Creativity and Innovation

The Ethiopian copyright law should include provisions to penalize misuse of exclusive rights and encourage technological innovation through fair licensing practices. Competition and consumer protection laws can be employed to address monopolistic behaviors and misuse of rights. Furthermore, the government should advocate for the importance of collective administration of rights, emphasizing its benefits for right owners, users, and the general public.

BIBLIOGRAPHY

• Books

1. Fisher A, *Studies on Copyright* (Copyright Society of USA, vol 2, 1963).
2. Bilen T, *Scope of Copyright in Audiovisual Works under Proclamation No. 410/2004: The Law and Practice* (Unpublished, AAU, Faculty of Law, 2001).
3. *Copyright Laws and Treaties of the World* (Paris, UNESCO, 1956).
4. Kaplan B, *Cases on Copyright, Unfair Competition and Other Topics Bearing on the Protection of Literary, Musical, and Artistic Works* (Foundation Press, 1960).
5. Metville LW, *Forms and Agreements on Intellectual Property and International Licensing* (Clark Boardman Co. Ltd, 1983, Vol I).
6. Gassaway L, *Growing Pains: Adapting Copyright for Libraries, Education, and Society* (Fred B Rothman, 1997)

• Journals and Articles

1. Mitiku D, 'Fair Practice Standard under Copyright Law of Ethiopia: The Case of Education' (2020) 6 International Journal of Law.
2. Gervais DJ, 'The Tangled Web of UGC: Making Copyright Sense of User Generated Content' (2009) 11 Vanderbilt Journal of Entertainment and Technology Law.
3. Gervais D (ed), *Collective Management of Copyright and Related Rights* (2010).
4. Yemane Gesesew, 'Infringement and Remedies of Economic Rights of Audiovisual Works under the Ethiopian Copyright Law: Law and Practices in Addis Ababa' (2011, unpublished, AAU library)
5. Ethiopian Intellectual Property Office (EIPO), 'Overview of the Concept of Copyright and Neighboring Rights' (2010).
6. Teklehaymanot D, *Originality in Copyright and the Judicial Jurisprudence in Ethiopia* (LLM thesis, Addis Ababa University 2018).

7. Bulcha N, *Copyright Infringement in User Generated Contents: A Critical Analysis of YouTube's Terms of Service and Policies Vis-à-vis Ethiopian Copyright Standards

• **Laws**

i. Domestic legislation

1. Constitution of the Federal Democratic Republic of Ethiopia, Proclamation No. 1/1995.
2. Ethiopian Intellectual Property Office Establishment Proclamation, Proclamation No. 320/2003, Federal Negarit Gazeta, 9th Year, No. 4.
3. Copyright and Neighboring Rights Proclamation, Proclamation No. 410/2004, Federal Negarit Gazeta, 10th Year, No. 54.
4. Copyright Amendment Proclamation, Proclamation No. 872/2014, Federal Negarit Gazeta, 21st Year, No. 20.
5. Civil Code of the Empire of Ethiopia, Proclamation, Negarit Gazeta, No. 165 of 1960, Year 19, No. 2.
6. The Criminal Code of the Federal Democratic Republic of Ethiopia Proclamation.
7. Media proclamation no. 1238/2021

ii. International copyright instruments

1. WIPO Copyright Treaty (WCT), adopted in Geneva on 20 December 1996.
2. WIPO Performances and Phonograms Treaty (WPPT), 20 December 1996.
3. Berne Convention for the Protection of Literary and Artistic Works, September 1979 (entered into force 6 March 2002) 1C, Legal Instruments-Results of the Uruguay Round, Vol 31, 1994, International Legal Materials.
4. Digital Millennium Copyright Act, 28 October 1998.
5. Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C.
6. Universal Declaration of Human Rights, 10 December 1948, UNGA.
7. International Covenant on Economic, Social and Cultural Rights, 16 December 1966, United Nations Treaty Series, Vol 993.

• **Internet Sources**

1. 'Copyright Infringement' <http://encyclopedia.thefreedictionary.com/> accessed 3 October 2023.
2. Rodack DV, 'Remedies for Copyright Infringement' <http://www.tms.org/pubs/journal> accessed 3 October 2023.
3. United Nations Educational, Scientific and Cultural Organization (UNESCO), 'Guide to the Collective Administration of Authors' Rights' <http://www.ilo.org/public/english/dialogue/actemp/.../srscbarg> accessed 18 June 2023.
4. Uchtenhagen U, 'Establishment and Collective Management Organizations' http://www.wipo.int/about-ip/en/copyright_societies.html accessed 29 July 2023.
5. Katz A, 'Copyright Collectives: A Good Solution' <http://www.rotman.utoronto.ca/timothy.simcoe/KatzCopyright.pdf> accessed 18 July 2023.
6. Tiang AK, 'Collective Management Organizations, Their Role, Functions and Structure' <http://www.wipo.com> accessed 10 August 2023.
7. Ficsor M, 'Collective Administration of Copyright and Neighboring Rights' http://www.wipo.int/export/sites/www/dcea/en/pdf/tool_2.pdf accessed 11 August 2023.
8. WIPO, 'WCT, art 1, 20 December 1996' http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=295166 accessed 21 March 2023.
9. 'IP-related Multilateral Treaties: WTO, TRIPS, art 9(1), 1994' http://www.wipo.int/treaties/en/text.jsp?file_id=305907 accessed 24 March 2023.
10. Berry P, 'Introduction to Collective Management of Copyright and Related Rights: A Regional Approach' http://www.wipo.int/meetings/en/details.jsp?meeting_id=3662 accessed June 2023.
11. WIPO, 'Collective Management Society: Challenges and Opportunities' http://www.wipo.int/.../Singapore/2011JuneCMForum/Report_of_the_Forum.pdf accessed 5 October 2023.

12. 'Copyright Infringement Notification'

https://www.youtube.com/copyright_complaint_form accessed 5 January 2021.

13. 'Rules and Policies, Enforcing Copyright'

<https://www.youtube.com/howyoutubeworks/policies/copyright/#enforcingcopyright> accessed 5 January 2021.

Questioner to be filled by the respondents

For Broadcast Medias

Dear. Sir/madam

My name is ABEBAW ABEBE conducting research on LLM thesis on The Legal Framework For” The Exploitation of Protected Works by Broadcast Media and The Role of The Copyright Society in Ethiopia” Law and practices in Radio and TV Located in Addis Ababa. Have devised some question related to the theme of my research. I anticipate you are too busy handling other matters. However, your genuine and diligent response is indispensable for the successful completion of my study. Hence, I kindly requested to help me in filling this questionnaire.

Thanks you in advance.

I. Part one

1. General information

NamePosition

ResponsibilityWork Experience

2. Questionnaire

Is the existing copyright law sufficient to enforce royalty payment on Broadcast Media?

Yes How

No Why

I do not know

2.2. Is The Ethiopian Intellectual Property Authority (EIPA) in a position to enforce royalty collection on Broadcast Media?

Yes How.....

No..... Why.....

I Do not know

2.3. Is it possible to create copyright protection and collect royalty on foreign copyrighted works in Ethiopia?

Yes..... How.....

No..... Why.....

I do not know

2.4. Is Music Idol shows Which are Broadcasted on TV stations free from royalty?

Yes ----- How.....

No ----- Why.....

I do not know.....

2.5. Are foregone movies which are translated to Amharic and broadcasted on TV are free from royalty?

Yes ----- How.....

No ----- Why.....

I do not know.....

2.6. Is collective management society in Ethiopia is in a position to collect Royalty from Radio and TV?

Yes How.....

No Why.....

I do not know

2.7. Is there possible solution to curb the exploitation of protected works by broadcast media?

YesHow.....

No Why.....

I do not know

2.8. Is there any fair control price adopted for royalty per each Audiovisual work broadcasted on Radio and TV in Ethiopia?

Yes How

No Why

I do not know.....

2.9. Is there any measurement for commercial use of copyrighted work and noncommercial use of copyrighted work by Radio or TV Station?

Yes How.....

No Why.....

I do not know

2.10. Is there victims and beneficiaries of infringement of audiovisual works by broadcast media

Yes How

No Why

I do not know

Any other comment if you have

በመላሸች የሚሞላ መጠይቅ

እኔ ስም አበባው አበበ በአዲስ አበባ ዩኒቨርሲቲ የማስተር የመጨረሻ አመት የመመረቂያ ፅሁፍ "በሕግ ጥበቃ የተሰጣቸው እና በብሮድካስት ሚዲያ የሚለቀቁ የጥበብ ስራዎች የሕግ ማዕቀፍ እና የቅጂና ተዛማጅ መብቶች የጋራ አስተዳደር ማህበራት ድርሻ በኢትዮጵያ " በሚል ርዕስ ጥናታዊ ፅሁፍ በማዘጋጀት ላይ እገኛለሁ :: በእርግጥም በእጅጉ የስራ ጫና እንደሚኖርበት እገነዘባለሁ በመሆኑም አፍታ ግዜን እንዲቸሩኝ እየጠየኩኝ የዕርስዎ ይህን መጠይቅ በሃላፊነት መመላት በጥናቱ ውጤት ላይ ወሳኝ የሆነ ሚና ያለው በመሆኑ ይተባበሩኝ ስል ለዚሁም ከአዲስ አበባ ዩኒቨርሲቲ የህግ እና አስተዳደር ክፍል የድህረ ምረቃ ክፍል በአድራሻ ለተቋምዎ የተፃፈውን የትብብር ደብዳቤ አያይዌ ያቀረብኩ መሆኑን በአክብሮት እገልጻለሁ ::

ክፍል አንድ አጠቃላይ ሁኔታ

ስም -----

ሃላፊነት-----

የስራ ልምድ-----

ክፍል ሁለት

፩. የኮፒ ራይት ሕጉ በራዲዮ እና በቴሌቪዥን ጣቢያዎች ላይ የሮያሊቲ ክፍያ አሰባሰብን ለማስፈጸም ብቁ ነው ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፪. የኢትዮጵያ አዕምሯዊ ንብረት ባለስልጣን የራዲዮ እና ቴሌቪዥን የሮያሊቲ ክፍያ አሰባሰብን ተፈጻሚ ከማድረግ አንፃር ድርሻውን እየተወጣ ነው ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፫. በውጭ ሃገር የኮፒራይት ጥበቃ የተጣቸውን ስራዎች በኢትዮጵያ የኮፒራይት መብት ማስጠበቅና የሮያሊቲ ክፍያ መሰብሰብ ይቻላል ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፬. በቴሌቪዥን የሚተላለፉ የአይደል ሾው የተሰጥኦ ውድድሮች ከሮያሊቲ ክፍያ ነፃ ናቸው ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፭. የውጭ ሃገራት ፊልሞች ወደ አማርኛ ቋንቋ ተተርጉመው በሃገር ውስጥ የቲቪ ቻናል ሲተላለፉ ከሮያሊቲ ክፍያ ነፃ ናቸው ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፮ የጋራ አስተዳደር ማህበራት በኢትዮጵያ ከራዲዮ እና ቴሌቪዥን ሮያሊቲ ለመሰብሰብ ብቁ ናቸው ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፯ የብሮድካስተሮች የኮፒራይት እና ተዛማጅ መብቶች ጥሰትን ለማስቆም አማራጭ መፍትሄ ይኖራል?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፰ በራዲዮ ወይም በቴሌቪዥን በሚተላለፉ የጥበብ ስራዎች ላይ የተተመነ ተመጣያኝ የሆነ የሮያሊቲ ክፍያ አለ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፱. በራዲዮ ወይም በቴሌቪዥን የሚተላለፉ የጥበብ ስራዎችን በማስመልከት ለንግድ አላማ የሚውሉ እና ለንግድ አላማ የማይውሉ በሙል ለመለየት የሚያስችል መመዘኛ አለ?

አዎ እንዴት-----

አይደለም..... ለምን-----

አላውቅም

፲. በህግ ጥበቃ የተሰጣቸው በብሮድካስት በሚለቀቁ የጥበብ ስራዎች ምክንያት የሚጎዱ እና የሚጠቀሙ አካላት ይኖራሉ ?

አዎ እንዴት-----

አይደለም ለምን-----

አላውቅም

ተጨማሪ አስተያየት ካለዎት :-

.....
.....
.....