



**A CRITICAL ANALYSIS OF
BROADCASTING RIGHTS -WITH
SPECIAL REFERENCE TO
INTELLECTUAL PROPERTY RIGHTS
(IPR)**

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ABSTRACT

Broadcasting rights are rights which a broadcasting association negotiates with a corporate concern- like as a sports governing body or film distributor in order to show that the company's products on TV or radio, either live, delayed or highlights. Transmission of data through a signal rested approach has been made possible by the broadcasting institutions, but it has come at certain costs. The problem posed by infrequency of signal theft argued the member nations of the World Intellectual Property Organization to make a new foreign tool in the form of a convention to tackle this problem. In the light of a present legal authority where protection is granted to the broadcasting institutions, and whether granting more protection in the form of exclusive rights will serve the interest of developing nations or not. The representatives of developing nations have made it clear that if the convention isn't predicated on fundamental and absolutely necessary rights, it should be abandoned. A study of the convention makes it clear that the primary purpose of the convention isn't to attack signal theft, which makes its primary schedule ancillary in nature. Broadcasters want the proposed convention to contain provisions resemblant to those in the WIPO

Internet conventions that would outlaw the breaking of anti-piracy “ locks ” on digital signals, like as encryption and “ tracking ”. Critics argue that, by restricting what can be viewed on what stuff, these rules could also block flawlessly legal uses of television broadcasts, like as recording programmes for personalized or educational uses, as well as inhibit technological innovation. Supporters of giving broadcasters extended foreign rights say the situation regarding supporting content would not change, because it would always be open to others to broadcast or transmit their own (authorized) interpretations of the same content. For illustration, while the broadcast of a concert featuring Beethoven ’s Fifth Symphony would be defended, the symphony itself would remain in the public department for others to play, record or broadcast. Notwithstanding, broadcasters argue that they need to guard the broadcast itself, which can involve significant investment in framework as well as the purchase of broadcasting rights.

KEYWORDS: Broadcasting rights, broadcasting board, property rights, organizations, treaty and protection.

1. Introduction

Intellectual Property (IP) has been traditionally classified into Industrial property and Copyright. The term Broadcasting rights are rights which broadcasting association negotiates with a corporate concern- like as a sports governing body or film distributor- in order to show that the company's products on TV or radio, either live, delayed or highlights. Broadcasting through radio and TV now remains one of the most important mechanisms for communicating knowledge to the public at



large in developing countries. however, the development of digital technologies, leading to a technological confluence between the three pillars in the chain of communication namely, telecommunications, broadcasting and informatics, and interactive developments (multimedia multimedia), holds enormous implicit for accelerating access and wide diffusion of works specifically to developing countries. Therefore, delivering information and entertainment to all partitions of society happens to be fast and cheaper, so, fostering education in an gradually interactive ambient. A need nowadays felt amongst developing countries is to make an applicable civil and international regulatory framework to promote the affair of manufactory, and its transmission for the benefit of all partitions of society. Part of this process involves revising the being infrastructures for the protection and regulation of broadcasting organizations. Moreover, developing countries being the primary components of the convention, it's necessary that the services remain affordable to them, coherent with the broadly honoured values and aims of freedom of expression and all ancillary benefits it confers to a citizen, subject to the condition that it not only reduces dispensable costs for consumers, but also doesn't interlope with the rights of other covered authors so as to make an unhealthy atmosphere where there's limited access to knowledge and inferior extent for creation. The objective of this paper is to know about the the rights of broadcasting organizations and the protection of broadcasting rights.

2. Aim of the study

- To know about the rights and duties of broadcasting organizations.

- To analyze the treaty on the protection of broadcasting rights.
- To know about the safeguard costly investments in televising sporting events.
- To know about the recognition of the entrepreneurial efforts of broadcasting organization.

3. Statement of the problem

Whether intellectual property rights provides adequate awareness about broadcasting rights and public awareness of the foremost right of broadcasting organizations is to show company products in television radio etc

4. Hypothesis

HO: There is no significant association between Age and public awareness of broadcasting rights and awareness of the foremost right of broadcasting organizations is to show company products in television radio.

HA: There is significant association between age and public awareness of broadcasting rights and awareness of the foremost right of broadcasting organizations is to show company products in television radio.

5. Material and Methods

Study method used for research is empirical type of method. This investigation is finished by a review survey method of questionnaires where responses collected from various people is gathered regarding Broadcasting rights This review incorporates inquiries like procedures involved in recycled goods .This empirical study on problems faced by the working women during night shifts is done through opting a survey method as data collection method and sampling method used for collection of data is random sampling, where sample size taken is 933 which further



lead to analysis through crosstab, chi-square, and bar charts.

6. Research Methodology

The present research is conclusive, descriptive and based on non-empirical design. Qualitative data was generated to test the research hypothesis. In order to collect data on the dimensions of the study, a research instrument was designed. The study was conducted on secondary source of data books, articles, journals, e-sources, theories and the relevant provision with decided case laws. Focusing on these three areas put forward specific research problems.

Sample Size Calculation Sources of Study

Only secondary sources are available. The secondary sources include books which is available in English, E-sources. Primary source of interview can't be conducted which researcher unable to refer due to shortage of time.

7. Limitation of the Study

Primary sources, compared to the secondary sources, are limited. Researcher had to rely more on secondary sources available in books, e-sources gather information about the study. The researcher was unable to visit and interview the personnel like construction workers and their employers.

8. Broadcasting Rights

Broadcasting rights are rights which a broadcasting organization negotiates with a commercial concern - such as a sports governing body or film distributor - in order to show that company's products on

television or radio, either live, delayed or highlights. **Section 37 of the Copyright Act** grants a special right – known as the 'broadcast reproduction right' – to broadcasting organisations, independent of the copyright that rests with the creator or owner of the work which is being broadcast. The term of the right is 25 years. Every broadcasting organisation shall have a special right to be known as "broadcast reproduction right" in respect of its broadcasts." ¹The broadcast reproduction right shall subsist until twenty-five years from the beginning of the calendar year following the year in which the broadcast is made.

9. Protection of Broadcasting Rights

WIPO Internet treaties in 1996, on copyright and on performers and producers of phonograms (sound recordings), broadcasters too began to press for updated protection for the new broadcasting technologies. In 2011 WIPO's standing committee on copyrights and related rights, which is responsible for the broadcasting negotiations, agreed a work plan to come up with a new draft treaty that would be acceptable to all or most WIPO members Broadcasters obviously want protection for all means of transmission of their signals ("technology neutral" protection, in the jargon) that would cover new technologies such as digital programmed recording devices, on-demand video services and IPTV ("Internet protocol TV" or Internet TV), which can transmit programmed not only to televisions but to computers and mobile phones. However, some countries and civil society groups are wary of restrictions

¹ "Figure 1.9. Intellectual Property Rights (IPR): Sub-Dimension Average Scores and Indicator Scores." n.d. <https://doi.org/10.1787/888933321220>.

Foster, Frank. 1982. Broadcasting Policy Development.



affecting Internet transmissions. In 2006, WIPO members agreed to put aside, for discussion on a different and later track, the issue of webcasting (broadcasting over the Internet or video content intended for Internet streaming). But there are concerns that protecting Internet transmissions by broadcasters could preempt these discussions by giving some protection to webcasters as well.

10. Rights and duties of Broadcasting Organization

The organization of broadcasting or cable broadcasting is a legal entity that independently determines the content of radio and television programs (a collection of sounds and (or) images or their representations) and carries them on air or by cable on their own or with the help of third parties. The rights of such organizations derive from their creative contribution, namely, the creation of broadcast programs, not from the content of the broadcast, not from the film, for example, but from the very operation of the broadcast. The fact that they are able to transmit signals representing a broadcast transmission gives them protected rights as if on these signals. And here again, the investments and efforts that they are investing in the implementation of various programs that are the subject of broadcasting appear.³

The organization of broadcasting or cable broadcasting has the exclusive right to use a

message that is lawfully carried out or carried out by it on the air or by cable of transmissions in accordance with Art. 1329 of the US Civil Code in any way that does not contradict the law (the exclusive right to communicate a radio or television program). The organization of broadcasting or cable broadcasting may dispose of the exclusive right to communicate a radio or television program. Article 1330 of the Civil Code of the United States provides for the exclusive right to radio or television broadcasts and is simultaneously fixed, which should be considered the use of these messages.⁴

11. Analysis and Discussion

Bringing out results on aspects of broadcasting rights whether most people have been aware or unaware of the rights by raising two questions

- Are you aware of broadcasting rights?
- Do you agree that the foremost right of broadcasting organizations is to show company products in television and radio.

11.1 Frequency Table

The frequency table is to know that the respondents were aware of intellectual property rights

Age				
	Frequ ency	Perce nt	Valid Percent	Cumul ative Percent

² Goel, Deepa, and Shomini Parashar. n.d. IPR, Biosafety and Bioethics. Pearson Education India.

Goswami, B. N. 1996. Broadcasting: New Patron of Hindustani Music. South Asia Books.

³Harms, L. T. C., and World Intellectual Property Organization. 2018. A Casebook on the Enforcement of Intellectual Property Rights: 4th Edition. WIPO.

Haynes, Richard. 2005. "Broadcasting Rights to

Sport." Media Rights and Intellectual Property. <https://doi.org/10.3366/edinburgh/9780748618804.003.0005>.

⁴Modic, Dolores, and Nadja Damij. 2018a. "Interviewing IPR Executives." Towards Intellectual Property Rights Management. https://doi.org/10.1007/978-3-319-69011-7_4.



Valid	below 30	476	51.0	51.0	51.0
	between 30-50	275	29.5	29.5	80.5
	Above 50	182	19.5	19.5	100.0
	Total	933	100.0	100.0	

responses collected from several people. The present frequency table is based on job and occupation of the respondents. Out of which 273 respondents were students, 280 were professionals, 89 were not working, 150 were retired, 61 were daily wages and 80 were private sector. Thus, on the whole a total of 933 responses were collected.

11.1.2 Discussion

With respect to current survey results, the frequency table is created out of the survey responses collected from several people. The present frequency table is based on Age of the respondents. Out of which 476 respondents were in the age group of below 30, 275 respondents were below 30-40, and 182 respondents were above 182. Thus, on the whole a total of 933 responses were collected.

Are you aware of intellectual property rights?					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	478	51.2	51.2	51.2
	No	282	30.2	30.2	81.5
	Maybe	173	18.5	18.5	100.0
	Total	933	100.0	100.0	

Job					
		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Student	273	29.3	29.3	29.3
	Professional	280	30.0	30.0	59.3
	Not working	89	9.5	9.5	68.8
	Retired	150	16.1	16.1	84.9
	Daily Wages	61	6.5	6.5	91.4
	Private Sector	80	8.6	8.6	100.0
	Total	933	100.0	100.0	

11.2 By Age

- Are you aware of broadcasting rights?

Crosstab					
		Are you aware of broadcasting rights?			Total
		Yes	No	Maybe	
Age	below 30	201	214	61	476
	between 30-50	89	119	67	275
	Above 50	55	82	45	182
Total		345	415	173	933

11.1.3 Discussion

With respect to current survey results, the frequency table is created out of the survey

Chi-Square Tests



	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	24.705 ^a	4	.000
Likelihood Ratio	24.987	4	.000
N of Valid Cases	933		

11.2.1 Discussion

This crosstab is based on public opinion on the statement Are you aware of broadcasting rights that who are categorized on the bases of Age .201 people who are below 30 years age group were aware of broadcasting rights,214 unaware of broadcasting rights and 61were not sure about broadcasting rights. 89 people who are between 30-50 years age group were aware of broadcasting rights,119 unaware of broadcasting rights and 67 were not sure about broadcasting rights.55 people who are above 50 years age group were aware of broadcasting rights, 82 unaware of broadcasting rights and 45 were not sure about broadcasting rights

11.2.2 Result

In a crosstab between age and awareness on question Are you aware of broadcasting rights? The Pearson chi-square value is $p < 0.000$. Thus null hypothesis is rejected with regard to awareness on question Are you aware of broadcasting rights? and the alternative hypothesis is of is accepted with regard to the awareness of broadcasting rights.

- **Do you agree that the foremost right of broadcasting organizations**

is to show company products in television radio?

Crosstab					
Count					
		Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc?			Total
		Agree	Neutral	Disagree	
Age	below 30	62	315	99	476
	between 30-50	87	91	97	275
	Above 50	39	45	98	182
Total		188	451	294	933

Chi-Square Tests			
	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	143.082 ^a	4	.000
Likelihood Ratio	142.382	4	.000
N of Valid Cases	933		

11.2.3 Discussion

This crosstab is based on public opinion on the statement Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc that who are categorized on the bases of Age .62 people who are below 30 years age group were agreed with the question ,315 were neutral, and 99 were disagreed. 87 people who are between 30-50 years age group were agreed with the question ,91 was neutral, and 97 were disagreed 39 people who are above 50 age group were agreed with the question,45 was neutral, and 98 were



disagreed with the statement that the foremost right of broadcasting organizations is to show company products in television radio etc.

11.2.4 Result

In a crosstab between age and awareness on question Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc ?The Pearson chi-square value is $p < .000P < 0.005$. Thus null hypothesis is rejected with regard to awareness on question Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc ? and the alternative hypothesis is of is accepted with regard to the awareness of that the foremost right of broadcasting organizations is to show company products in television radio etc.

11.3 By Qualifications

- Are you aware of broadcasting rights?

Crosstab					
Count					
		Are you aware of broadcasting rights?			Total
		Yes	No	Maybe	
Job	Student	62	198	13	273
	Professional	159	66	55	280
	Not Working	55	34	0	89
	Retired	31	66	53	150
	Daily Wage	25	0	36	61
	Private Sector	13	51	16	80
Total		345	415	173	933

Chi-Square Tests				
		Value	df	Asymptotic Significance (2-sided)
Pearson	Chi-Square	143.082 ^a	4	.000
Likelihood Ratio		142.382	4	.000
N of Valid Cases		933		

11.3.1 Discussion

This crosstab is based on public opinion on the statement Are you aware of broadcasting rights that who are categorized on the bases of Job . 62 students were aware of broadcasting rights , 198 unaware of broadcasting rights and 13 were not sure about broadcasting rights .159 professionals were aware of broadcasting rights , 66 unaware of broadcasting rights and 55 were not sure about broadcasting rights.55 were not working are aware of broadcasting rights , 34 unaware of broadcasting rights .31 who are retired were aware of broadcasting rights , 66 unaware of broadcasting rights and 53 were not sure about broadcasting rights .25 who are working under daily wages were aware of broadcasting rights , and 36 were not sure about broadcasting rights .13 people who were were aware of broadcasting rights , 51 unaware of broadcasting rights and 16 were not sure about broadcasting rights

11.3.2 Result

In a crosstab between age and awareness on question Are you aware of broadcasting rights ?The Pearson chi-square value is $p < .000P < 0.005$. Thus null hypothesis is rejected with regard to awareness on question Are you aware of broadcasting rights ? and the alternative hypothesis is of is accepted with



regard to the awareness of broadcasting rights.

- **Do you agree that the foremost right of broadcasting organisations is to show company products in television radio?**

Crosstab					
Count					
		Do you agree that the foremost right of broadcasting organisations is to show company products in television radio etc?			Total
		Agree	Neutral	Disagree	
Job	Student	37	153	83	273
	Professional	37	115	128	280
	Not Working	2	82	5	89
	Retired	54	58	38	150
	Daily Wage	26	21	14	61
	Private Sector	32	22	26	80
Total		188	451	294	933

Chi-Square Tests				
		Value	df	Asymptotic Significance (2-sided)
Pearson	Chi-Square	170.859 ^a	10	.000
Likelihood	Ratio	172.978	10	.000
N of Valid	Cases	933		

11.3.3 Discussion

This crosstab is based on public opinion on the statement Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc that who are categorized on the bases of job ,37 students were agreed with the statement,153 were neutral, and 83 of them were disagreed. 37 professionals were agreed with the statement,115 were neutral, and 128 of them were disagreed. 2 respondents who are not working were agreed with the statement, 82 were neutral, and 5 of them were disagreed .54 retired respondents were agreed with the statement ,58 were neutral, and 38 of them were disagreed .26 respondents who are under daily wages were agreed with the statement , 21were neutral, and 14of them were disagreed .32 respondents who are working in an private sector were agreed with the statement, 22 were neutral, and 26 of them were disagreed with the statement Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc.

11.3.4 Result

In a crosstab between age and awareness on question Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc. ?The Pearson chi-square value is p .000P<0.005.Thus null hypothesis is rejected with regard to awareness on question Do you agree that the foremost right of broadcasting organizations is to show company products in television radio etc ? and the alternative hypothesis is of is accepted with regard to the awareness of that the foremost right of broadcasting organizations is to show company products in television radio etc.



12. Broadcasting rights in case laws with the provisions of the copyright Act

The judgment of the Supreme Court in the case of **Krishna vs. State of Maharashtra (2001 2001) 2 SCC 441**. It's submitted that whenever a act confers a monopoly, which is built-in in the patent) the monopoly is to be strictly clarified and the patent holder cannot claim any rights larger than those that are conferred by the act. It's submitted that the bread of the Copyright Act shouldn't be so clarified as to go an instrument of oppression or gouging by the trade name holder. It's submitted that Section 31 carves out an exception to the monopoly created by the Act in favour of the Trade name holder. It's submitted that Section 31 (1) (1) is in two land Where an Indian work has been once published or performed in public) either the possessor of the Trade name isn't entitled to withhold that work from the public by refusing to publish himself or refusing any other person granting to publish the work or to perform in public that work; Where an Indian work has been once published or performed in public, the possessor of the Trade name cannot refuse granting to broadcast that work to the public or, in the case of a sound recording, to broadcast the work recorded in correspondent sound recording on terms which the Complainant considers reasonable. It's submitted that so far as the chunk of Sub-section (1 1) of Section 31 are concerned, words of the section are clear, there in no murkiness in the words nor does the meaning of the plain words lead to any anomaly or foppery and so the Court must give effect to the plain meaning of the words used in the chunk. In support of this submission reliance is placed on two judgments of the Supreme Court. one in the case of H.M.Kamaluddin Ansari Co.

vs. Union of India, and other in the case of Bhinkav. Charan Singh. From different modes of communication of the work to the public, one mode namely broadcast has been treated differently, in mo far as the question of annuity of mandatory licence is concerned. It's submitted that there's a reason for treating the mode of broadcast single-handedly and distinctly from other modes of communication. It's submitted that the right to broadcast which is an flash right is conferred upon every person who wishes to broadcast the work or the work recorded in a sound recording, on terms that are reasonable. This sub-serves the public purpose of dispersion by broadcast of every class of Copyrighted work. & bookish, cultural, musical, dramatic, cinematograph film and sound recording. In so far as the right to broadcast is concerned, Section 31 (1)(b) doesn't lay down the pre-condition for allotment of incumbent licence that the work being withheld from public. That the terms offered by the plaintiff to the trademark holder are reasonable, is a matter of particular satisfaction of the plaintiff. Authority is conferred on the Copyright Board to determine reasonable terms including as to compensation mo that all those who wish to communicate the work by Broadcast are placed on an equal footing and the element of arbitrariness is fully removed. So far the viands of sub section 2 of Section 31 are concerned, it's submitted that when farther than one interpretation of the provision is possible, the Court must choose that interpretation which furthers the object of the Act and avoid an conflict or foppery. It's submitted that considering the language used in Sub-section 1 (b) of Section 31, there cannot be any limitation on the number of



persons, who are to be granted mandatory licence to broadcast on reasonable terms.⁵

13. Broadcasting rights on copyright board Broadcast are placed on an equal footing and the element of arbitrariness is fully removed. So far an **Sub-section 2 of Section 31** are concerned, it's submitted that when farther than one interpretation of the provision is possible, the Court must choose that interpretation which furthers the object of the Act and avoid an anomaly or idiocy. It's submitted that considering the language used in **Sub-section 1 (b) of Section 31**, there cannot be any limitation on the number of persons, who are to be granted necessary licence to broadcast on reasonable terms. It's submitted that Sub-section (2) of Section 31 comes into play only where two or farther persons make a conjunct complaint and in that case the Copyright Board would grant licence to one of the two contenders who would best serve the interest of the general public in the opinion of the Copyright Board. It's further submitted, in the option that it can be said that under **Section 13 (2)** of the General Clauses Act, singular includes plural, either in terms of the viands Sub-section 2 of Section 31 the Copyright Board can grant licence either to one suer or to farther than one suer, if appropriation of ditto licence to farther than one suer in the opinion of the Copyright Board would best serve the interest of the general public. It's submitted that the interpretation of **Section 31 (2)** canvassed by PPL has to be rejected because ditto interpretation runs round to the plain words of **Section 31 (1) (a) & (b)**. It's

submitted that that interpretation will also backfire in lunacy. It's submitted that the Broadcast means communication to the public by wireless wordage or by string. Broadcast of a work are could be in a prom hall, a grill, a tavern and wire Tube as also by radio. Complaints may be made that the terms put by the Mark proprietor are unreasonable in respect of prom halls, grills, taverns, wire non drivers and FM Stations. However, the Copyright Board would be suitable to grant preemptory licence to only one of the varied suers , If interpretation canvassed by the Citizens on the of **Sub-section (2) of Section 31** is accepted. It's submitted that the intention of the parliament in ordaining Section 31 is to confer the right to broadcast upon all persons who wish to broadcast the work or the work recorded in a sound recording on terms which are reasonable including as to compensation.⁶

14. Suggestions

Whenever there is infringement on the broadcasting rights the best way is to file a complaint on copyright board which leaves to take up the matter and the complainant may eligible for compensation for infringement of broadcasting rights. Copyright board able to grant compulsory license on only in rare complainants and the legislature is enacting in section 31 is to confer right to broadcast the work and rights vested for the compensation. To avoid infringement copyright has to be checked before the various broadcasting on their stations has to go through the original broadcaster where the rights vested.

⁵ "IPR Management in Action: The Road to 'Better' IPR Management." Towards Intellectual Property Rights Management. https://doi.org/10.1007/978-3-319-69011-7_7.

⁶ Mowery, David C. 2010. "IPR and US Economic

Catch-Up." Intellectual Property Rights, Development, and Catch-Up. <https://doi.org/10.1093/acprof:oso/9780199574759.003.0002>.



15. Conclusion

Broadcasting is part of right to freedom of speech and expression provided by Article 19(1) of the Indian Constitution, while national laws provide various options for tackling signal piracy, including shutting down illegal websites, broadcasting organizations have pressed for better legal protection at international level. At the same time, broadcasters and sports organizations are using digital media to reach out to and engage their audiences, especially younger viewers, by offering sports coverage in a variety of formats. the Air space is not the monopoly of the Government; it is used for public interest. Likewise, many decisions of the Supreme Court provide that the broadcasting media is right for public interest and due to the competition in the broadcasting market the TV channels are large in number and try to compete with each other, so they are used to Broadcast uncensored scenes and unauthorized scene also the scenes, which harm the security of the nation. Therefore, there must be a proper regulation and control over broadcasting media through effective mechanism.
