[BG] New Tariffs of the Collective Societies

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After the coming into force of the 2011 amendments to the Bulgarian Copyright and Related Rights Act, all the collective societies are required under Article 40e to request approval of their tariffs by the Minister of Culture. This provision applies in particular to the following collective societies:

- the society of the phonogram producers and music performers (PROPHON);

- the society of the authors and composers of music works (MUSICAUTOR); and

- the Bulgarian organization of the film authors and producers (FILMAUTOR)

The approval procedure requires each organisation to present, together with the fee and the application for its approval, an agreement with the relevant business organisation. The only business organisation of commercial broadcasters in Bulgaria is the Association of Bulgarian Broadcasting Organisations (ABBRO). The agreement should express the consensus of both parties with regard to the agreed amounts of remuneration and be the product of active negotiation between the parties.

The lengthy and exhaustive negotiations between ABBRO and PROPHON lead, in June 2012, to a new umbrella agreement concluded for a (partly retroactive) period of two years (2011-2012) only with regard to radio operators. No agreement was reached on the remuneration in respect of television broadcasting for the expired period (2009-2011) or for future periods. Neither was agreement reached in respect of radio broadcasting for future periods.

In these latter cases the law provides for the appointment by the Minister of Culture of a special committee to assess the tariff offered by ABBRO. Representatives of the two parties (ABBRO and PROPHON) and three experts for the two parties are required to participate in the committee. If the parties cannot achieve consensus on the three experts, the Minister of Culture is to appoint three persons from the list of mediators with expertise in copyright cases. The committee must within one month prepare a statement on the tariff filed by the collective society. On this basis the Minister of Culture is required within the following month to confirm or refuse the offered tariff.

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Since there is no consensus between the two parties on the experts to be involved in the work of the special committee, and taking into account that there is still only one name on the list of mediators specialising in the copyright cases, the Ministry tacitly suspended the procedure for an unspecified period.

MUSICAUTOR claimed that there was an existing 2010 agreement with ABBRO on a fair amount of remuneration for broadcasting, and referred to this agreement in its application. At the request of ABBRO, the Minister of Culture issued a refusal to approve the tariff, on the ground that the submitted agreement was not valid and that ABRRO was not subject to its terms. MUSICAUTOR appealed the refusal to the court. The case will be heard at first instance by the end of 2012.

Until that time, PROPHON and MUSICAUTOR could apply their previous tariffs by virtue of the law, but the users - members of ABBRO - are in disagreement with them and have refused to pay.

Only FILMAUTOR has gained officially approved tariffs for the broadcasting of films, by virtue of the Order of the Minister of culture from 20 April 2012.

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http://mc.government.bg/files/1311_Zapoved%20avt%20pr.pdf

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