

# 1. COPYRIGHT LAW

## Chapter I General Provisions

### Section 1 General Rules

#### (Definitions)

Article 2.- (1) In this Law, the following terms shall have the meaning hereby assigned to them respectively:

(vii<sup>bis</sup>) “public transmission” means the transmission of radio communication or wire—telecommunication intended for direct reception by the public, excluding the transmission (other than that of program works) by wire-telecommunication installations one part of which is located on the same premises where the other part is located or, if the premises are occupied by two or more persons, both parts of which are located within the area therein occupied by one person;

(viii) “broadcasting” means the public transmission of radio communication intended for simultaneous reception by the public of the transmission having the same contents;

(ix<sup>bis</sup>) “wire diffusion” means the public transmission of wire-telecommunication intended for simultaneous reception by the public of the transmission having the same contents;

(ix<sup>quater</sup>) “interactive transmission” means the public transmission made automatically in response to a request from the public, excluding the public transmission falling within the term “broadcasting” or “wire diffusion”;

(ix<sup>quinquies</sup>) “making transmittable” means the putting in such a state that the interactive transmission can be made by either of the following acts:

(a) to record information on a public transmission memory of an interactive transmission server already connected with telecommunication networks for the use by the public (“interactive transmission server” means a device which, when connected with telecommunication networks for the use by the public, has a function of making the interactive transmission of information which is either recorded on such a part of its memory as used for the interactive transmission (hereinafter in this item referred to as “public transmission memory”) or inputted to such device; the same shall apply hereinafter), to add a memory recording information as a public transmission memory of such an interactive transmission server, to convert such a memory recording information into a public transmission memory of such an interactive transmission server, or to input information to such an interactive transmission server;

(b) to connect with telecommunication networks for the use by the public an interactive transmission server which records information on its public transmission memory or which inputs information to itself. In this case, where a connection is made through a series of acts such as wiring, starting of an interactive transmission server or putting into operation of programs for

transmission or reception, the last occurring one of these acts shall be considered to constitute the connection.

(xvii) “recitation” means the oral communication by means of reading or otherwise, not falling within the term “performance”;

(xviii) “cinematographic presentation” means the projection of a cinematographic work on the screen or other material forms, and includes such an intangible reproduction of sounds fixed in that cinematographic work as made in company with its projection;

(xix) “distribution” means the transfer and lending of copies of a work to the public, whether with or without payment, and in the case of a cinematographic work or a work reproduced therein, it includes the transfer and lending of copies of such work for the purpose of making cinematographic work available to the public;

(xx) “this country” means the jurisdiction within which this Law is effective.

(7) In this Law, “performance” and “recitation” include the performance or recitation of a work by means of sound or visual recordings, not falling within the term “public transmission” or “cinematographic presentation”, and “performance”, “recitation” and “cinematographic presentation” include the communication by means of telecommunication installations of performances, recitations or cinematographic presentations of works, not falling within the term “public transmission”.

(9) In this Law, the meanings assigned to the terms defined in [paragraph \(1\)](#), [items \(viibis\)](#), [\(viii\)](#), [\(ixbis\)](#), [\(ixquater\)](#), [\(ixquinquies\)](#) and [\(xiii\)](#) to [\(xix\)](#) and the preceding two paragraphs shall also apply to their variant forms, as the case may be.

### **(Making public of works)**

Article 4.- (1) A work has been “made public” when it has been published, or when it has made available to the public, by a person who has the rights mentioned in [Articles 22](#) to 26 or with the authorization of such person, by means of performance, public transmission, recitation, exhibition or cinematographic presentation. In the case of architectural works, a work also has been “made public” when it has been constructed by a person who has the right mentioned in [Article 21](#) or with the authorization of such person.

(2) A work shall be considered as having been “made public” when it has been put, by a person having the rights mentioned in [Article 23, paragraph\(1\)](#) or with the authorization of such person, in such a state that it can be made transmittable

(3) A work shall be considered as having been “made public” when its translation has been made available to the public, by a person who has the same rights as those mentioned in [Articles 22](#) to 24 or [Article 26](#) in accordance with the provision of [Article 28](#) or with the authorization of such person, by means of performance public transmission, recitation or cinematographic presentation, or when such translation has been made transmittable by a person who has the same rights as those mentioned in [Article 23, paragraph\(1\)](#) in accordance with the provision of [Article 28](#) or with the authorization of such person.

(4) An artistic work or a photographic work shall be considered as having been “made public” when it has been exhibited, by such a person as mentioned in [Article 45](#), paragraph(1), in such a manner as provided in that paragraph.

(5) A person who would have the right mentioned in [paragraphs \(1\)to\(3\)](#) of this Article if his work were protected under this Law or a person who obtained the authorization to exploit the work from such person shall be considered to be a person who has such right or a person who obtained the authorization from such person, and the provisions of these paragraphs shall apply with respect to those persons.

## Chapter II Rights of Authors

### Section 3 Contents of Rights

#### *Subsection 3 Rights Comprised in Copyright*

##### **(Rights of public transmission, etc.)**

Article 23.- (1)The author shall have the exclusive right to make the public transmission of his work (including the making transmittable of his work in the case of the interactive transmission).

(2)The author shall have the exclusive right to communicate publicly, by means of a receiving apparatus, his work of which the public transmission has been made.

### Section 7 Exercise of Rights

##### **(Authorization to exploit works)**

Article 63.- (1) The copyright owner may grant another person authorization to exploit the work.

(5)The provision of [Article 23, paragraph\(1\)](#) shall not apply to such making transmittable of a work, by a person who has obtained such authorization with respect to the making transmittable of the work, as being made repeatedly or by means of another interactive transmission server in the manner and to the extent so authorized, provided that such manner and extent are not concerned with the frequency of the making transmittable of a work or an interactive transmission server to be used for the making transmittable of a work.

## Chapter IV Neighboring Rights

### Section 1 General Rules

##### **(Neighboring rights)**

Article 89.- (1) Performers shall enjoy the rights mentioned in [Article 91](#), paragraph (1), [Article 92, paragraph \(1\)](#), [Article 92bis, paragraph \(1\)](#) and [Article 95bis](#), paragraph (1) as well as the right to secondary use fees mentioned in [Article 95bis](#), paragraph (3).

(2) Producers of phonograms shall enjoy the rights mentioned in [Articles 96 and 96bis](#) and [Article 97bis](#), paragraph (1) as well as the right to secondary use fees mentioned in [Article 97](#), paragraph (1) and the right to remuneration mentioned in [Article 97bis](#), paragraph (3).

## Section 2 Rights of Performers

### **(Rights of broadcasting and wire diffusion)**

Article 92.- (1) Performers shall have the exclusive rights to broadcast and to diffuse by wire their performances.

(2) The provisions of the preceding paragraph shall not apply in the following cases:

(i) where the wire diffusion is made of performances already broadcast;

(ii) where the broadcasting takes place of, or the wire diffusion is made of the following:

(a) performances incorporated in sound or visual recordings with the authorization of the owner of the right mentioned in [paragraph \(1\)](#) of the preceding Article;

(b) performances mentioned in [paragraph \(2\)](#) of the preceding Article and incorporated in recordings other than those mentioned in that paragraph.

### **(Right of making transmittable)**

Article 92bis.- (1) Performers shall have the exclusive right to make their performances transmittable.

(2) The provision of the preceding paragraph shall not apply to the following:

(i) performances incorporated in visual recordings with the authorization of the owner of the right mentioned in [Article 91](#), paragraph(1);

(ii) performances mentioned in [Article 91](#), paragraph(2) and incorporated in recordings other than those mentioned in that paragraph.

### **(Fixation for broadcasting purposes)**

Article 93. - (1) Broadcasting organizations which have obtained the authorization to broadcast performances from the owner of the right of broadcasting mentioned in [Article 92, paragraph \(1\)](#) may make sound or visual recordings of such performances for broadcasting purposes, provided that the contract has no stipulation to the contrary or that the sound or visual recordings are not intended for the purpose of use in broadcasting programs different from those authorized.

### Section 3 Rights of Producers of Phonograms

#### **(Right of making transmittable)**

Article 96bis. - Producers of phonograms shall have the exclusive right to make their phonograms transmittable.

### Section 7 Limitations, Transfer, Exercise and Registration of the Rights

#### **(Transfer, exercise, etc. of neighboring rights)**

Article 103. - The provision of [Article 61](#), paragraph (1) shall apply *mutatis mutandis* to the transfer of neighboring rights, the provision of [Article 62](#), paragraph (1) to the expiry of these rights, and the provisions of [Article 63](#) to the authorization to exploit performances, phonograms, broadcasts or wire diffusions, and the provision of [Article 65](#) shall apply *mutatis mutandis* with respect to the joint authorship of these rights, and the provisions of [Article 66](#) with respect to the establishment of a pledge on these rights. In this case, "[Article 23, paragraph\(1\)](#)" in [Article 63, paragraph \(5\)](#) shall read "[Article 92bis, paragraph\(1\)](#) or [Article 96bis](#)".

#### Supplementary Provisions

#### **(Transitory measures: public performances by the use of sound recordings)**

Article 14. - The provisions of [Article 30](#), paragraph (1), item (viii) and paragraph (2), as well as [Article 39](#) of the old Law shall, for the time being, continue to be effective with respect to public performances of musical works by the use of sound recordings made lawfully, other than those given by public transmission and those given by enterprises which use such recordings for the purpose of profit-making and which are defined by Cabinet Order.

#### Supplementary Provisions

(Law No.86, of 1997)

#### **(Date of enforcement)**

1. - This Law shall come into force on January 1, 1998.

#### **(Transitory measures: works, etc. in a state that the interactive transmission thereof can be made)**

2. - The provision of [Article 23, paragraph\(1\)](#), [Article 92bis, paragraph\(1\)](#) or [Article 96bis](#) of the revised Copyright Law (hereinafter referred to as "the new Law") shall not apply to the making transmittable, by means of an interactive transmission server mentioned in [Article 2, paragraph\(1\), item \(ixquinquies\)](#) of the new Law, of such works, performances (only those mentioned in [Article 92, paragraph\(2\), item \(ii\)](#) of the Copyright Law before amendment (hereinafter referred to as "the old Law"); the same shall apply hereinafter in this paragraph) or phonograms as have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by a person who has made such works, performances or

phonograms transmittable through such interactive transmission or, if such a person is different from a person who, by means of such interactive transmission server for such making transmittable of such works, performances or phonograms, has put such works, performances or phonograms in a state that the interactive transmission thereof can be made at the time of coming into force of this Law, by the latter.

3. - The provision of [Article 92, paragraph\(1\)](#) of the old Law shall still be effective, even after the enforcement of this Law, with respect to performances (other than those mentioned in [Article 92, paragraph\(2\), item \(ii\)](#)) which have been in a state that the interactive transmission thereof can be made at the time of coming into force of this Law.

**(Transitory measures: penal provisions)**

4. - The penal provisions of the old Law shall still apply to acts made before the enforcement of this Law.