

The extended collective license agreement

Copyright for the internet age

The Nordic Public Service Broadcasters
(DR, NRK, RUV, SVT, SR, UR and YLE)

Copyright for the internet age

The extension by law of collective licensing agreements is a flexible and balanced solution that allows broadcasters to introduce innovative services while at the same time protecting the interests of the rightsholders. It has been perceived as a win-win model.

For more than 50 years, the Nordic broadcasters have been able to broadcast pre-existing literary and musical works as well as, since the mid-1990s, works of fine arts, based on collective licensing agreements with an organization representing a substantial number of the rightsholders in the field.

By law, the agreement with the organization is extended to non-members. The non-members usually have a right to the same terms and remuneration as members and a possibility to opt out. This is the extended collective licence model (ECL). The same legal framework is used by commercial broadcasters and public institutions such as libraries, archives and civil authorities.

The ECL model has gained new relevance with internet-based services such as catch-up TV, media archives and online libraries for which rights clearance of a vast number of different rights often prevents, in this case, broadcasters from launching innovative services. The model creates a one-stop shop and is thus perfectly suited to the new media logic, in which flexible solutions to complex issues are needed in order to move forward. The examples from Denmark show what can be achieved with the ECL.

Without a supporting legal framework ensuring that the ECL covers all necessary use (for example, on-demand internet use and media archives) the broadcasters would need to obtain permission from each and every rightsholder of the pre-existing work or presentation in advance. For example if one single rightsholder for a TV programme is not found, the programme cannot be broadcast.

Extended collective licensing in brief

Artists, writers and other authors of creative works are organized in specific collecting societies and rightsholders' organizations.

They have granted the right to manage their copyright or neighbouring rights to these societies and organizations, which conclude agreements with those who use the works then distribute the remuneration to the rightsholders.

In the Nordic countries, it is possible to have such agreements for a specific use extended to cover rights pertaining to authors and neighbouring holders that are not members of these organizations.

A broadcaster, library or a civil authority and a collecting society can conclude an agreement regarding protected works or presentations with just one organization representing a certain group

of rightsholders. Owing to a provision in the Copyright Act, the agreement is extended to rightsholders that are not members of the society and so it will also cover orphan works, i.e. copyrighted works by rightsholders that cannot be identified.

All rightsholders, members and non-members, are treated equally and have the same right to compensation. Foreign rightsholders are generally remunerated by the sister collecting society in their home countries.

It is possible for all non-members to opt out of the ECL agreement. To conclude an ECL agreement, a collecting society must be considered to represent the rightsholders in that sector, according to the copyright legislation.

Extended collective licensing – applied to Danish radio & television programme archives

The archives of Danish Radio (DR), the Danish public service broadcaster, contain 570,000 hours of radio and television from the early days of broadcasting to the present. The advent of broadband internet at the beginning of the new millennium made it possible for DR to offer Danish citizens on-line access to this wealth of content for the first time. But clearing the rights was a challenge. With thousands of programmes – many involving a large number of rightsholders – clearing rights on a programme-by-programme basis was impossible.

In order to solve this problem a special archive provision was added to the Danish Copyright Act in 2002. The provision made it possible to offer on-demand access to DR's archives on the basis of extended collective licensing.

With the provision in place in the Danish Copyright Act, DR could enter into negotiations with the rightsholders. CopyDan Arkiv was formed as a joint organization of authors, directors, actors, etc. In 2007, the first European agreement that allows for on-demand access to a public service broadcaster's archive had become reality.

Examples of services to the audience

The logo for Bonanza, featuring the word "Bonanza" in a stylized, orange and yellow font with a black outline.The logo for youSee, featuring the word "youSee" in a bold, black font with a white outline.

In 2008 the first programmes from the archives were viewed by Danish citizens on the new service DR Bonanza. Since then, more than 24 million programmes have been viewed and an average of 75,000 Danish citizens a month have accessed Bonanza to enjoy this rich Danish cultural heritage.

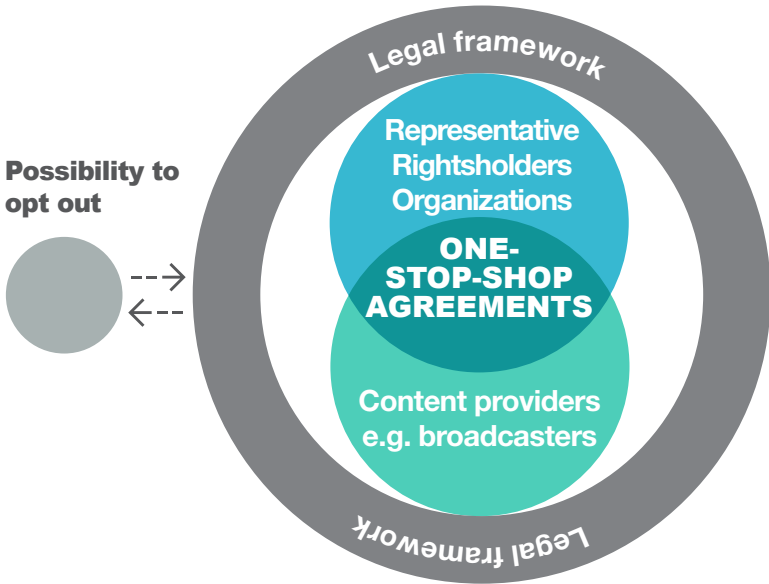
dr.dk/Bonanza yousee.dk/archives

The Nordic model is the basis of the innovative 'restart and TV archive' service of the leading Danish cable provider, YouSee. The service allows subscribers to view TV programmes from the last 30 days on demand and to 'restart' every TV programme during the broadcast. The Nordic model ensures that YouSee can offer the services on the basis of an agreement with the collecting societies Koda, CopyDan and UBOD – and without entering into direct individual agreements with the thousands of rights holders involved in the TV programmes.

The extended collective license agreement illustrated

Rightsholders

Orphan works, Non-member, Members



User
