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PART I : SECTION (I) — GENERAL

Government Notifications

L. D. B. 1/2005

INTELLECTUAL PROPERTY ACT, No. 36 OF 2003

REGULATIONS made by the Minister of Science, Technology and Research under Section 204 of the Intellectual Property Act, No. 36 of 2003 read with Sections 6, 9, 17, 18 and 25 of the aforesaid Act.

Minister of Science,
Technology and Research.

Colombo,
2019, June 14th

Regulations

1. These regulations may be cited as the Intellectual Property Regulation (Songs and Musical Work) No. 01 of 2019.

2. (1) Where a person or a group of persons, including a radio broadcasting organization or institute, a television broadcasting organization or institute, a telecommunication service or a system provider (hereinafter referred to as the “user”) reproduces or communicates a song or musical work or any substantial part thereof by means of electronic, digital communication, transmission, or uses for any potential source of digital technology in telephone media for entertainment or for commercial purposes, such user shall enter into a written agreement with the owner of the rights of such song or musical work or the Collective Society, as the case may be, to make a payment as royalty, as may be mutually agreed upon by such user and the owner of the rights or the Collective Society for such purpose.



(2) The terms and conditions of such agreement shall not preclude the owner of the rights negotiating with the user, to vary the relevant payment.

3. (1) The owner of the rights or the Collective Society, as the case may be, shall inform the user in writing as to whom the payment specified in regulation 2 shall be paid.

(2) Such payment shall be made to the owner of the rights or the Collective Society on behalf of the owner of the rights in the following manner :-

- (a) When a user broadcasts on radio or telecast on television, or uses for commercial purposes a song or any substantial part thereof, the lyrics of a song or any substantial part thereof, the musical work in respect of a song or any substantial part thereof ;
- (b) When a user broadcasts or uses a musical work or any substantial part thereof without accompanying of any words ;
- (c) When a user broadcasts or uses background music or an acapella or any substantial part thereof, with or without lyrics ;
- (d) When a user broadcasts or telecasts or transmits a pictorial composition of a song or a substantial part thereof on television, subsequent to the composition and production of such pictorial composition ;
- (e) When a user broadcasts or transmits a pictorial composition of a musical work without accompanying words or an acapella or presentation or a substantial part thereof on television, subsequent to the composition and production of such pictorial composition.

4. Whenever a user being a telecommunication service provider broadcasts, communicates or transmits any lyrical, non-lyrical, musical, non-musical (Acapella) song, part of a song, musical work, part of a musical work, an instrumental music or part of an instrumental music in any digital media, such user shall make the relevant payment in respect thereof to the owner of the rights or the Collective Society, as the case may be, in terms of the agreement.

5. Where a copy right protected song is used by any individual in any music or song related competition (Reality Show) organized by the television media or radio media or any other digital media source in order to select talented individuals,-

- (a) the full song shall not be used for such purpose and no alternation shall be made to the lyrics, music, words or vocals of such song without prior written approval of the owner of the rights or the Collective Society :

Provided that, if the full song is used, a fee as may be determined and claimed by the owner of the rights or the Collective Society, as the case may be, shall be paid by such individual :

Provided further, the owner of the rights or the Collective Society may grant permission in writing for the use of the full song without such payment ;

- (b) alter the lyrics or music of the selected song, or add any words or vocals to the selected song without due approval of the owner of the rights.

6. The provisions of regulations 2 to 5 (both inclusive) shall also apply to literary, musical, dramatic and choreographic works, pantomimes, motion pictures and other audio visual works to perform the copyrighted works publicly and in the case of literary, musical, dramatic and choreographic works, pantomimes and pictorial graphic or sculptural works including individual images of a motion picture or other audio visual work to public display of a protected work.

7. Unless the context otherwise requires, for the purpose of these regulations -

“Collective Society” shall have the same meaning as assigned to it in Intellectual Property Act, No. 36 of 2003 ;

“Musical work” includes any graphical notation of such musical work whether or not it is sung or spoken or performed with or without music ;

“Telecommunication Service Provider” shall have the same meaning as assigned to it in Sri Lanka Telecommunication Act, No. 25 of 1991 ;

“Telecommunication System Provider” shall have the same meaning as assigned to it in Sri Lanka Telecommunication Act, No. 25 of 1991 ;

“work” shall have the same meaning as assigned to it in Intellectual Property Act, No. 36 of 2003.

8. Intellectual Property Regulation No. 1 of 2011 in *Gazette Extraordinary* No. 1687/28 of January 5, 2011 is hereby repealed without prejudice to anything done thereunder.

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