# **Intellectual Property and IPTV Content**

**IPTV Forum Russia - 2007** 



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and also personally llya Kondrin for the aiding in preparation of this presentation.





1. IPTV content – catalogue of copyright and neighbouring rights

2. Investment of capital in a catalogue of copyright and neighbouring rights in IPTV content in Russia



## 1. IPTV content – catalogue of copyright and neighbouring rights

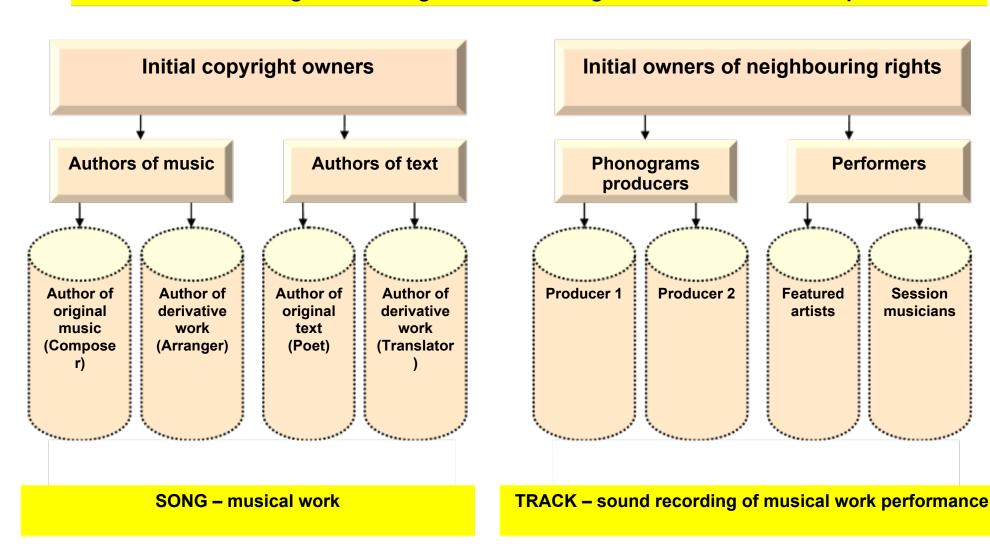
1.1. Intellectual rights in a song or intellectual rights in a track. What is important?	
1.2. How much percents of intellectual rights in IPTV content it is necessary to acquire?	?
1.3. The record label's catalogue or music publisher's catalogue. What is general and w	hat is difference?
	viewpoint of Fourth
1.5. Is it possible to acquire all necessary intellectual rights from television or film com for all and forever?	pany? One payment

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#### 1.1 Intellectual rights in a song or intellectual rights in a track. What is important?

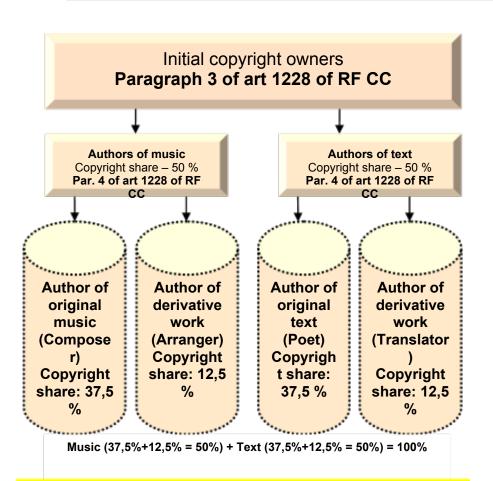
Session

musicians



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#### 1.2. How much percents of intellectual rights in IPTV content it is necessary to acquire?



Initial owners of neighbouring rights Phonograms producers **Performers** Share of neighbouring Share of neighbouring rights - 50 % rights - 50 % **Producer 1** Producer 2 **Featured** Session artists musicians Phonogram (50%) + Performance (50%) = 100%

100 % of neighbouring rights

100 % of copyright

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#### 1.3. The record label's catalogue or music publisher's catalogue. What is general and what is difference?

#### **Music Publishing Houses**



Permit to create a phonogram

Remuneration for phonogram creation

#### **Record Companies**





#### Composers, poets / Musical works





Performers / Phonograms





from 1 to 100 % of copyright

IPTV Broadcasters

100 % of neighbouring rights

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Specificity of russian market of neighbouring rights catalogues

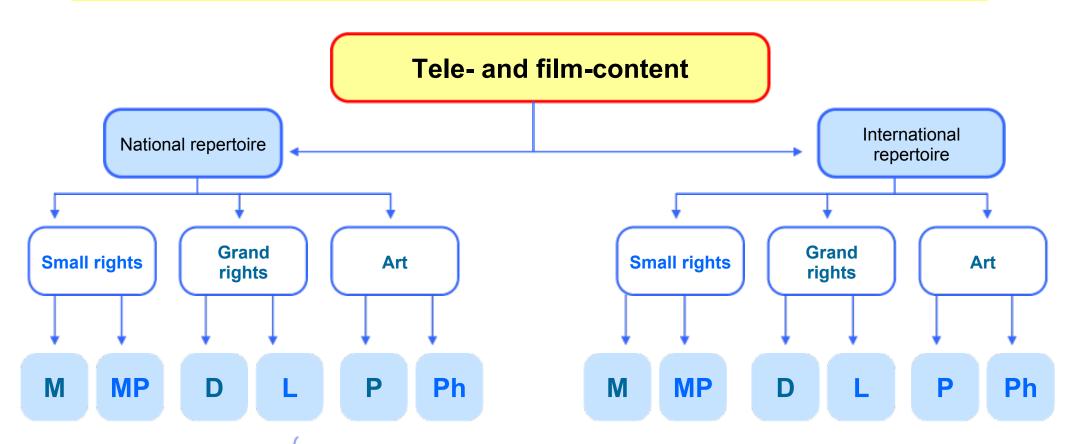
Phonograms of company "Melody" created within USSR period

Phonograms from archives of Gosteleradiofond of USSR



Producer does not have a 100% control over neighbouring rights – in USSR were not concluded written agreements with performers about transfer of any neighbouring rights in performance

1.4. Tele- and film-content for IPTV as a compound object of intellectual rights from the viewpoint of Fourth part of RF CC.



#### **Annotation:**

M – Musical works with text or without text

**MP** – Music from motion picture

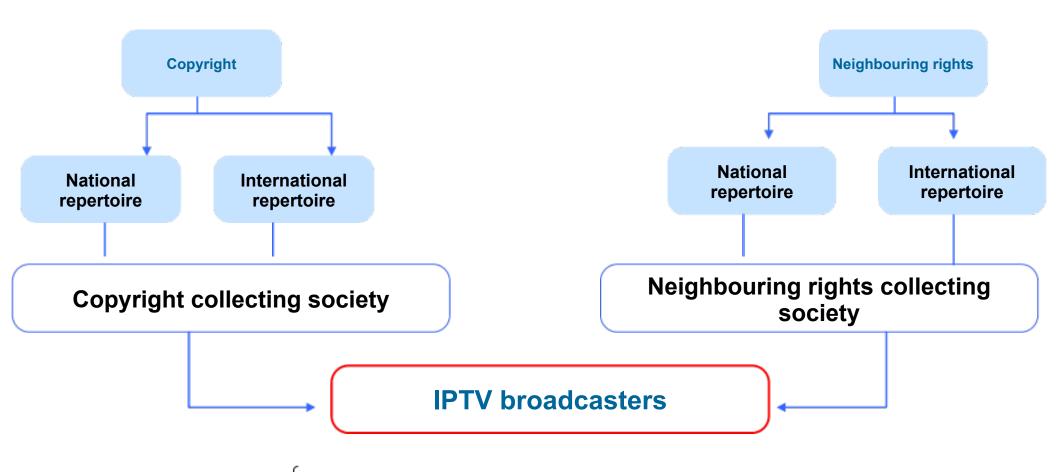
D - Dramatic works and dramatico-musical works

**L** – Literary works

P - Works of painting, graphic, sculpture, design, architecture

**Ph – Photographs** 

# BLANKET LICENCES ARE NOT CONTEMPLATED IN IV PART OF RF CC

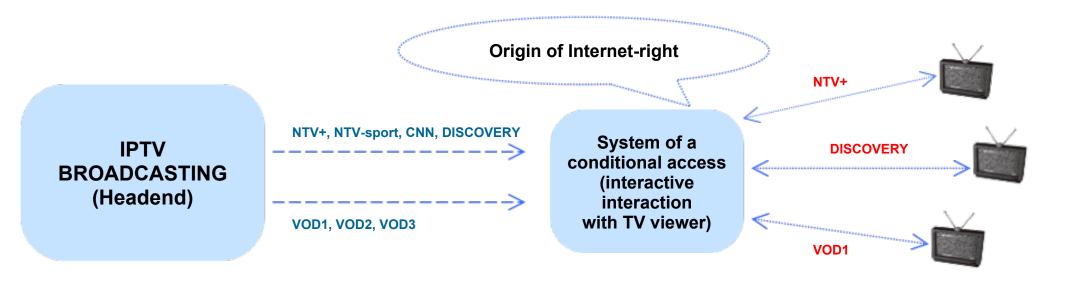


**Annotation:** 

Blanket licence – the licence in the name of all right holders both which transferred rights to collecting society and which did not.

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# Internet-right is the main category of copyright and neighbouring rights used in IPTV broadcasting

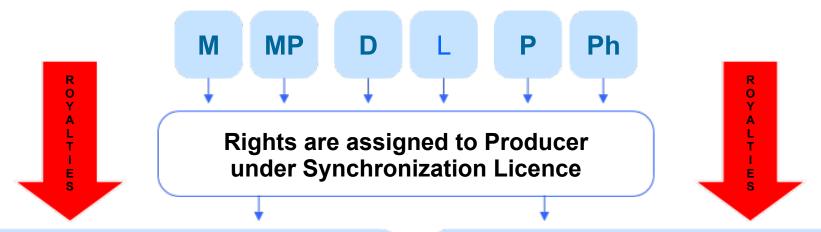


VOD - video on demand

**Annotation:** 

Internet-right – make available a work, performance, phonogram to the public in such a way that any person may access it from any place and at any time of his own choice

1.5. Is it possible to acquire all necessary intellectual rights from television or film company? One payment for all and forever?



Junction of images of fragments from various existing Works with visual row of created TV- and Film-content

Junction of sound excerpts from various existing Works and Phonograms with soundtrack of created TV- and Film-content

That's why Producer of TV-programs and Films practically never controls 100% of copyright and neighbouring rights in TV- and film-content

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2. Investment of capital in a catalogue of copyright and neighbouring rights in IPTV content in
Russia
Nussia

•	and "sleeping" repertoire from catalogue. Who determines this division of nd how it affects the rights cost?
neighbourin	the right of first and second choice from catalogue of copyright and g rights? How it affects a reduction of costs associated with copyright and g rights purchasing for IPTV content?
 2.4. "Latent"	economic and legal risks at investment in IPTV content on territory of Russia.
2.5. A use of	f "our old and good pictures" and Gosteleradio's archives in IPTV

2.1. Is it possible to reduce costs associated with purchasing of intellectual rights at a stage of project planning?

Moscow BANK (Investor in IPTV)

Drafting of business plan

Volume of rights is similar to musical internet store

Intention to acquire 100% of copyright and neighbouring rights from one of western record labels

Billing system and circulation of documents are similar to musical internet store

**IPTV** company

Conclusion of contract with one of western record labels and payment of big indemnity payment

Acquisition of non-exclusive neighbouring rights in phonograms catalogue

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Realization of IPTV project business plan

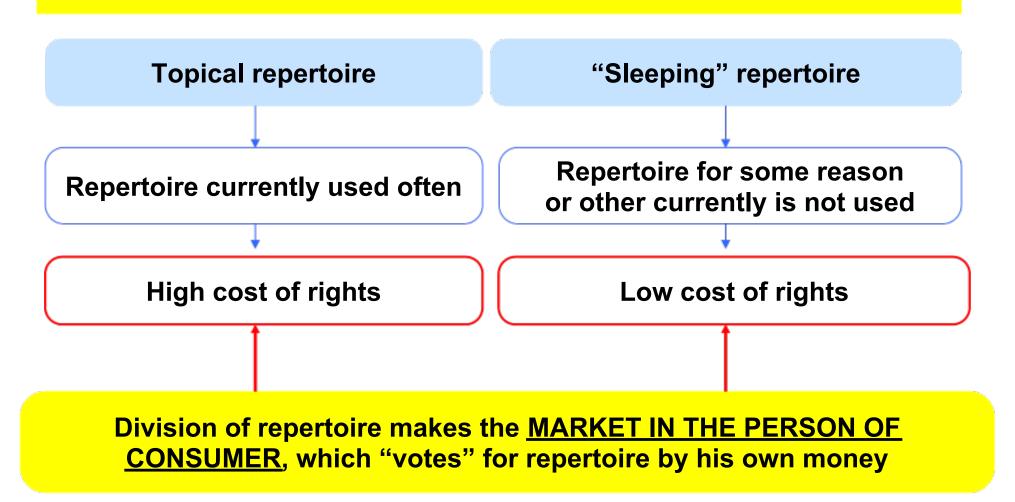
"Clearance" only 20% of neighbouring rights and only for one object (phonograms), used in IPTV broadcasting

Necessity of acquisition of non-exclusive neighbouring rights and copyright in all other objects (photos, videos, films etc) used in IPTV broadcasting

Urgent changing of circulation of documents and existing billing system

Non-predictable cost increasing of IPTV project realization

2.2. Topical and "sleeping" repertoire from catalogue. Who determines this division of repertoire and how it affects the rights cost?



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2.3. What is the right of first and second choice from catalogue of copyright and neighbouring rights? How it affects a reduction of costs associated with copyright and neighbouring rights purchasing for IPTV content?

The right of first choice means privileged and exclusive right of Licensee to choose a content (movies, television programs, phonograms etc) within the defined period from Licensor's catalogue for use in IPTV broadcasting

The right of second choice means privileged and exclusive right of other Licensee to select a content (movies, television programs, phonograms etc) from those movies and television programs available in Licensor's catalogue

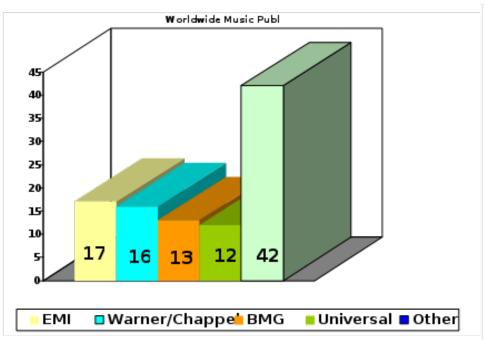
which the first Licensee has not chosen within defined period

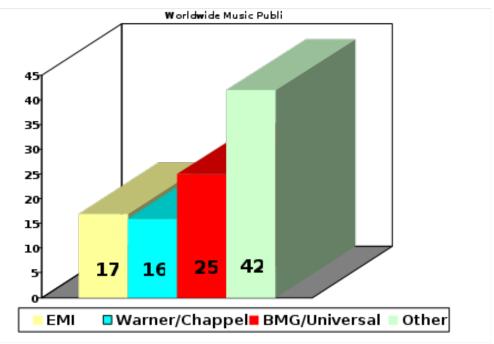
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#### 2.4. "Latent" economic and legal risks at investment in IPTV content on territory of Russia.

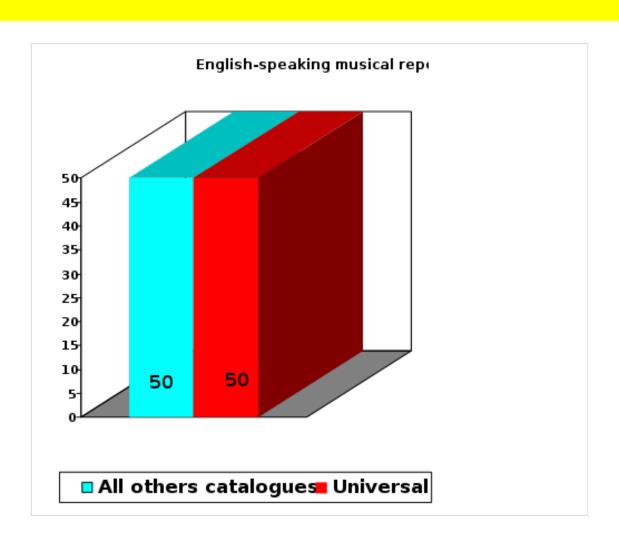
Before the merger of BMG's and Universal's copyright catalogues

After the merger of BMG's and Universal's copyright catalogues





### Copyright in musical catalogues in a field of IPTV broadcasting



# Main obstacle for development of IPTV broadcasting – Hollywood companies have no common strategy in a field of content use in IPTV

**Digital retail** 

Each film studio develops and adopts its own unique business strategy in a field of IPTV broadcasting

Digital rental

Each film studio will support and adapt its content only for particular platform of IPTV broadcasting

IPTV market fragmentation and increasing of content cost

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#### 2.5. A use of "our old and good pictures" and Gosteleradio's archives in IPTV

Motion pictures and telefilms that were created within USSR period

Producer of audiovisual work does not have neighbouring rights – <u>in USSR were not concluded written agreements with film actors about transfer of any neighbouring rights in performance</u>

Producer of audiovisual work does not have copyright and neighbouring rights in works and phonograms excerpts from which were used in visual and/or sound line of soviet film – in USSR were not concluded synchronization licences

# Your questions

you can put to us by mail:

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