

**23rd of April 2009**



**IS IT VERY IMPORTANT FOR RUSSIA TO HAVE OWN  
DIGITAL CONTENT DEVELOPMENT STRATEGY?**

**DIGITAL RUSSIAN CONTENT**

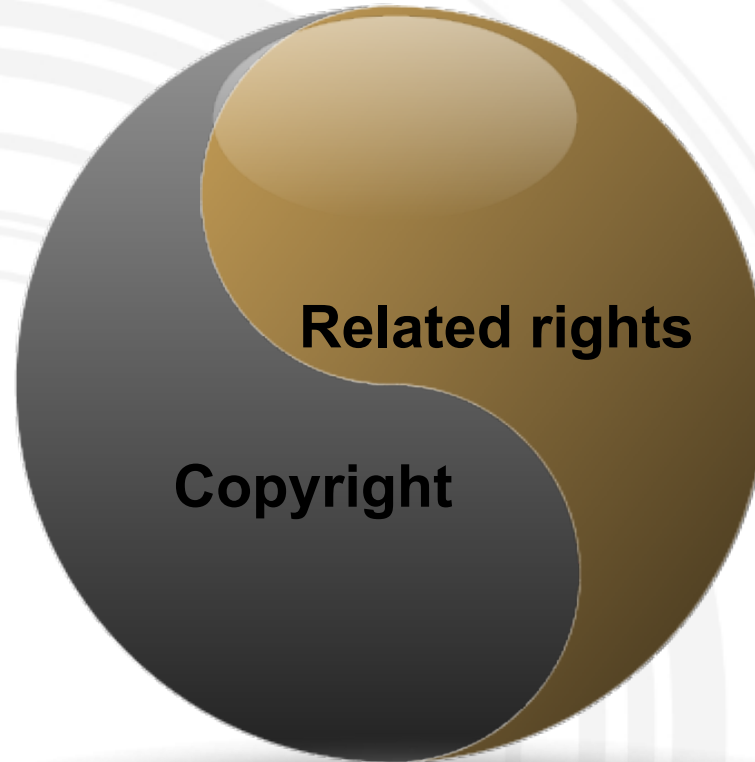
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# LEGAL SUBSTANCE OF DIGITAL CONTENT



# MAIN CONSTITUENTS OF DIGITAL CONTENT LEGALITY

- Copyright of authors and their heirs.
- Copyright of other rights holders (e.g. music publishers).



- Related rights of performers and producers of sound recordings.
- Broadcasters related rights.

# ILLEGAL DIGITAL CONTENT

DIGITAL CONTENT



Section 1229 Part IV of the Russian Civil Code

- «The other persons can't use ... the result of intellectual activity ...without the rights holder's consent ...»
- «Using original work of authorship ... (including its using in ways provided by this code), is illegal and entail liability under this code and other acts if such using take place without rights holder's consent...»

You must have all 100% shares of  
Copyright & all 100% shares of  
Related rights

# HOW DIGITAL CONTENT SHALL BE MADE LEGALLY?

IN ORDER «CLEARENCE» COPYRIGHT & RELATED RIGHTS

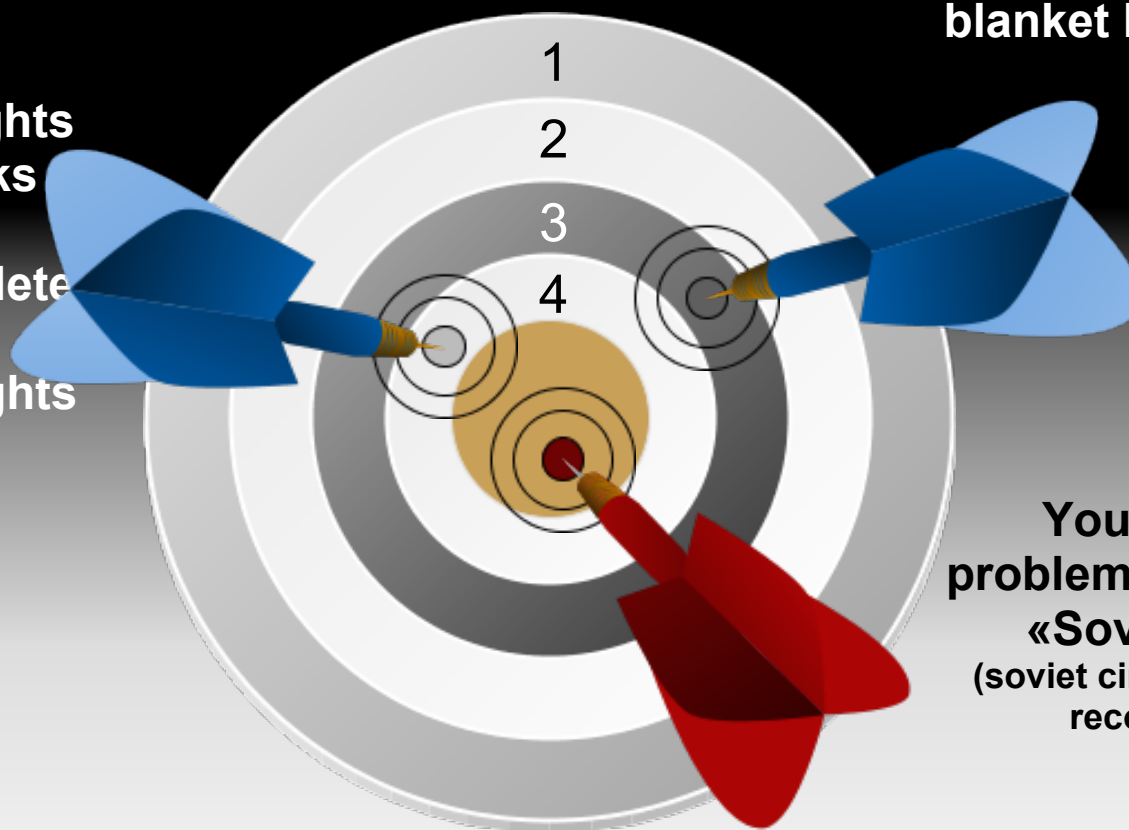
**COPYRIGHT**  
You must have all 100 % shares copyright on digital content



**RELATED RIGHTS**  
You must have all 100 % shares related rights on digital content

## WHY TRANSACTION COSTS EXCEED THE VALUE OF COPYRIGHT TO USERS IN DIGITAL ENVIRONMENT?

- You can not find information about rights holders (orphan works etc);
- Nobody have complete information as to ownership of copyrights



**You can not use blanket licence**

**You have many problems with so-called «Soviet content»**  
(soviet cinema, soviet sound recordings & etc)

**There is currently a significant information deficit with respect to the identification of copyright ownership in Russia**

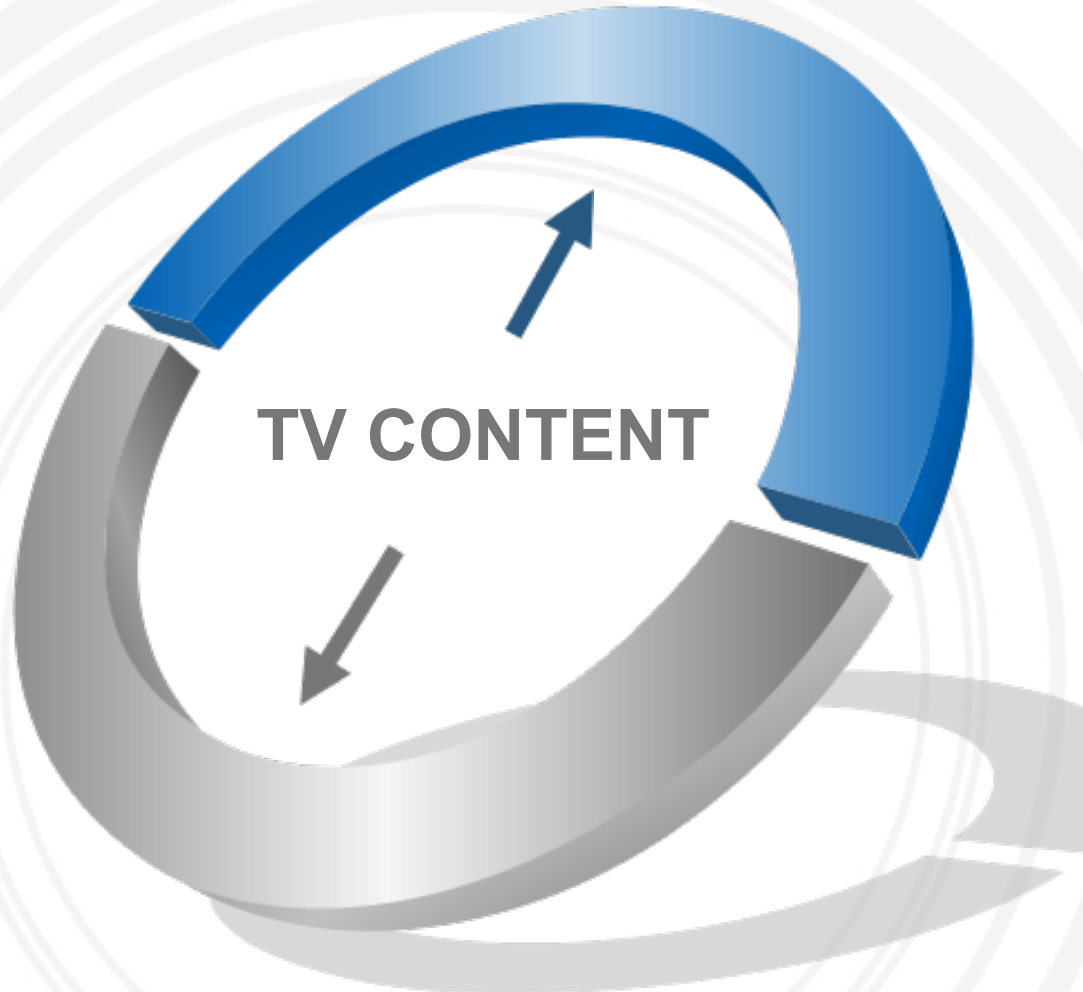
# CONTEMPORARY RUSSIAN LAW & “CLEARENCE” COPYRIGHT & RELATED RIGHTS IN DIGITAL ENVIRONMENT



THE TRANSITION TO DIGITAL TELEVISION IN RUSSIA, ON SAMPLE

# TV CONTENT

Two different kinds of TV Content



## LINER OR “PUSH” CONTENT

- The scheduled programmes delivered to passive viewers.
- Content has a potential impact on a mass audience

## NON-LINER OR “PULL” CONTENT

- Increasing control into the hands of viewers.
- Audience fragmentation
- Accessible by viewers at a time and place they choose.
- Time-shifted viewing; avoidance of advertising.
- Digital TV services on demand

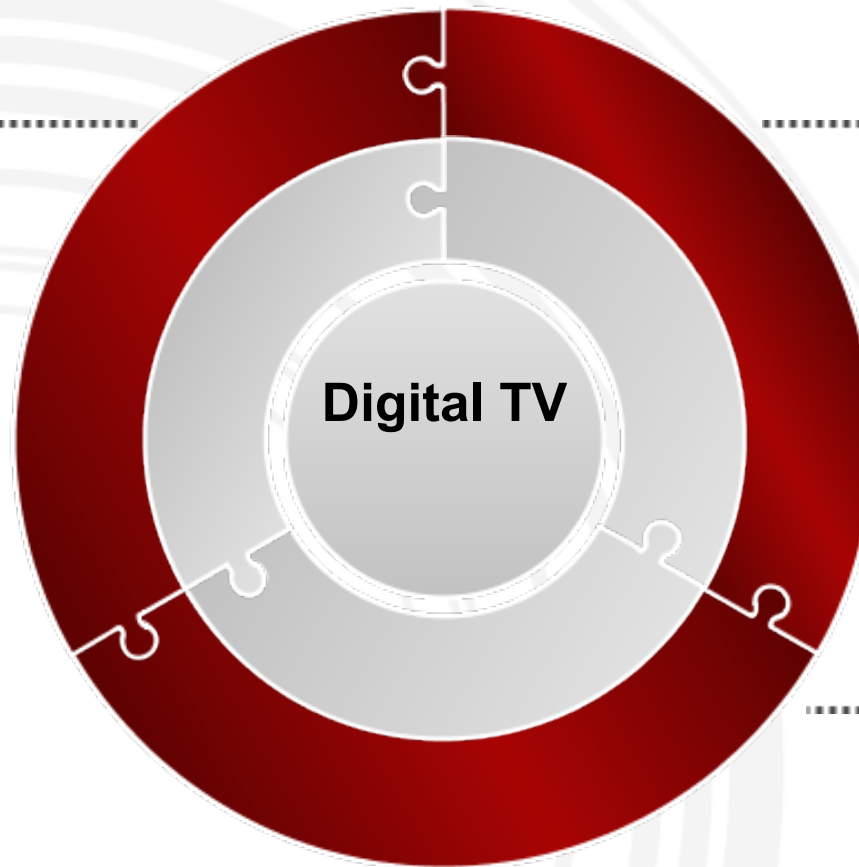


# THE THREE PHASES OF THE TRANSITION TO DIGITAL TELEVISION IN RUSSIA

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## The First Phase

Multi-channel TV



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## The Second Phase

Pay Television

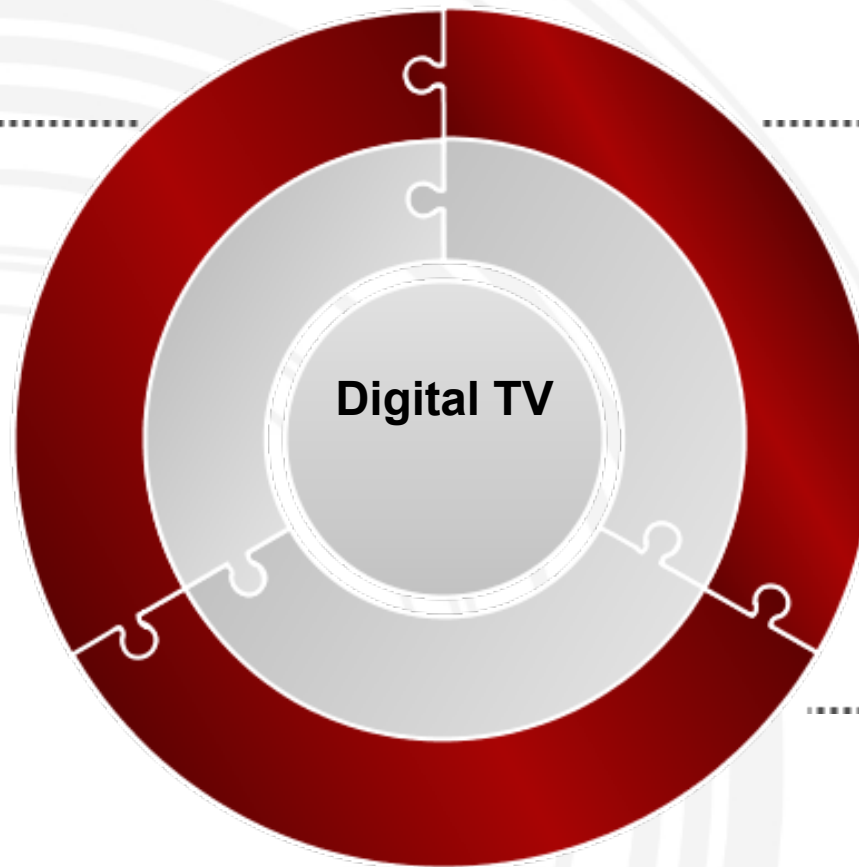
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## The Third Phase

Non-linear TV

**The First Phase**

Multi-channel TV



**The Second Phase**

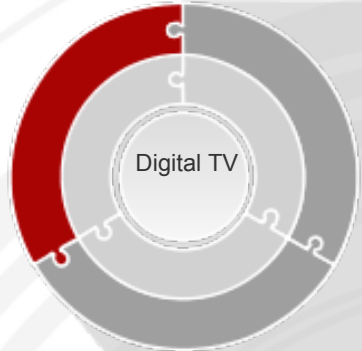
Pay TV

**The Third Phase**

Non-linear TV

# THE FIRST PHASE – MULTI-CHANNEL TELEVISION

While Russia has remained in First Phase of the transition to Digital Television



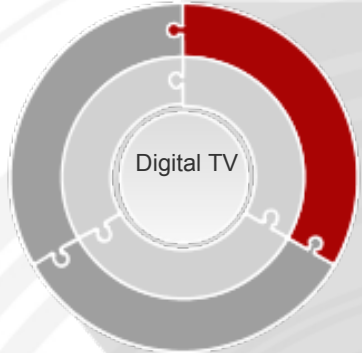
## MULTI-CHANNEL TELEVISION

- Multi-channel TV via satellite
- Multi-channel TV via cable
- Liner TV Content

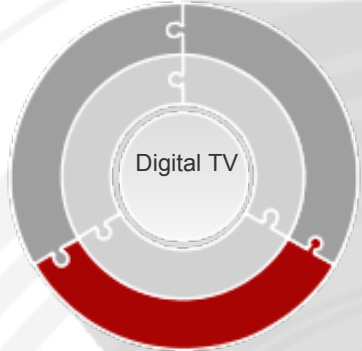
# THE SECOND PHASE – PAY TELEVISION

## PAY TELEVISION

- Pay TV becomes dominant
- Free-to-air broadcasting declines
- Increasing the number of TV channels available for audiences viewing
- Increasing the number of other screen entertainment options (like gaming)



# THE THIRD PHASE – NON-LINEAR TV SERVICES



## NON-LINEAR TV SERVICES

- IPTV
- Mobile TV
- Interactivity for TV services
- Non-linear digital content
- User Generated Content

# THE ACCREDITED RUSSIAN COLLECTING SOCIETY CAN GRANTED YOU ONLY TWO TYPES OF BLANKET COPYRIGHT LICENCES FOR LINER TV CONTENT

You need the following types of blanket copyright licences:

- Musical works
- Works of pantomime, including choreographic works
- Works of fine art, including works of architecture
- Photographic works
- Literary works
- All other types works according subsection 1 Section 1259 Part IV of the Russian Civil Code

You may received only the following types of blanket copyright licences (only some types music):

- Promulgated musical works with or without text
- Extracts from dramatico-musical works



## ONLY TWO TYPES OF BLANKET COPYRIGHT MUSIC LICENCES FOR LINER TV CONTENT

(Section 1244 Part IV of the Russian Civil Code)

RESUME

“Clearance” copyright to liner TV content in the Russia (2009)

# ACCREDITED RUSSIAN COLLECTING SOCIETY NO HAVE RIGHT TO GRANT DIGITAL BLANKET LICENCES TO USERS IN DIGITAL ENVIRONMENT

You need the following types of digital blanket licences:

- All types digital copyright (international & local repertory)
- All types digital related rights (international & local repertory)

A SYSTEM OF DIRECT LICENSING WITH MANY THOUSANDS RIGHT HOLDERS

- To identify who owns of each work, film, sound recording & etc
- The general rights clearance problems associated with works of multiple ownership
- The risk of negotiations between right holders and digital users collapsing, or not even taking place
- Negotiations between right holders and digital users have been dragging on for years
- Transaction costs exceed the value of copyright to users in digital environment

**YOU DID NOT RECEIVE OF ANY DIGITAL BLANKET LICENCES IN DIGITAL ENVIRONMENT**

**(Section 1244 Part IV of the Russian Civil Code)**

**RIGHTS CLEARANCE IS A SIGNIFICACNT BARRIER TO ENTRY IN THE NON-LINER TV RUSSIAN MARKET!!!!**

**“Clearance” copyright to non-liner TV digital content in the Russia (2009)**

## Alternative solutions

- **VOLUNTARY COLLECTIVE LICENSING OF MUSIC FILE SHARING**
- **PAN-EUROPEAN COLLECTIVE LICENSING**
- **NEW STIM's (SWEDEN) LICENSING MODEL TO MAKE LEGAL FILE SHARING POSSIBLE**
- **THE COLLABORATION BETWEEN COLLECTING SOCIETY (BUMA/STEMRA) & CREATIVE COMMONS**
- **US COMPULSORY LICENCE IN DIGITAL BROADCASTING**

## Status quo in Russia

- **ANY BLANKET LICENCES ARE NOT AVAILABLE FOR DIGITAL ENVIRONMENT**
- **A SYSTEM OF DIRECT LICENSING WITH MANY THOUSANDS RIGHT HOLDERS**
- **RIGHTS CLEARANCE IS A SIGNIFICANT BARRIER TO ENTRY IN THE DIGITAL MEDIA MARKET**
- **THERE IS CURRENTLY A SIGNIFICANT INFORMATION DEFICIT WITH RESPECT TO THE IDENTIFICATION OF COPYRIGHT OWNERSHIP**
- **TRANSACTION COSTS EXCEED THE VALUE OF COPYRIGHT TO USERS IN DIGITAL ENVIRONMENT**



# WHY RUSSIA DON'T HAVE INTELLECTUAL PROPERTY STRATEGIC PROGRAM?



AUSTRALIA - “Digital Economy Future Directions”



UNITED KINGDOM - “Digital Britain”



FRANCE - “Digital France 2012”



**RUSSIAN FEDERATION – “?????????????”**

**IS IT VERY IPPORTANT FOR RUSSIA TO HAVE OWN DIGITAL CONTENT DEVELOPMENT STRATEGY?**

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## REFERENCES

- **ILYA KONDRIN «MAKE AVAILABLE RIGHT IN ACCORDANCE WITH THE RUSSIAN CIVIL LAW"»**

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