

# Federal Law on Copyright\*

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Transitional Provisions

**TITLE I**  
**General provisions**

**Sole Chapter**

**Art. 1.** The purpose of this Law, which regulates **Article 28** of the Constitution, is the safeguarding and promotion of the cultural heritage of the Nation, and the protection of the rights of authors and performers and also those of publishers, producers and broadcasting organizations in relation to their literary or artistic works in all their forms, their performances, their publications, their phonograms or videograms or their broadcasts, and also other intellectual property rights.

**Art. 2.** The provisions of this Law are a matter of public policy and in the interest of society, and they are to be generally observed throughout the national territory. Their administrative implementation is the responsibility of the Federal Executive, acting through the National Copyright Institute and, in the cases provided for in this Law, through the Mexican Institute of Industrial Property.

For the purposes of this Law, “Institute” means the National Copyright Institute.

**Art. 3.** The works protected by this Law are originally-created works which may be disclosed or reproduced in any form or medium.

**Art. 4.** The works qualifying for protection may be:

(A) **in terms of their authorship:**

- (I) known works: containing a mention of the author’s name or of a sign or signature by which he is identified;
- (II) anonymous works: without any mention of the author’s name or of a sign or signature identifying him, either at the said author’s wish or because such identification is not possible;
- (III) pseudonymous works: disclosed under a name, sign or signature that does not reveal the author’s identity;

(B) **in terms of their communication:**

- (I) disclosed works: those that have been brought to the notice of the public for the first time in any form or medium, either entirely or in part, in their essential features or by means of a description thereof.
- (II) unpublished works: those that have not been disclosed;
- (III) published works:
  - (a) those that have been issued, regardless of the method of reproduction of the copies, provided that the number of the said copies made available to the public reasonably meets the exploitation requirements of the said work, estimated according to the nature thereof;

(b) those that have been made available to the public through storage in electronic media that allow the said public to obtain hard copies thereof, regardless of the nature of those copies;

(C) **in terms of their origin:**

(I) original works: those that are themselves original creations and not based on other, preexisting works, or which, being based on another work, possess characteristics that testify to the originality thereof;

(II) derived works: those that are the result of the adaptation, translation or other transformation of an original work;

(D) **in terms of the creators involved:**

(I) individual works: those that have been created by a single person;

(II) works of joint authorship: those that have been created by two or more authors;

(III) collective works: those that have been created on the initiative of a person, whether natural person or legal entity, who publishes and discloses them under his direction and name, where the personal contributions of the various authors who have participated in its making so merge in the whole with a view to which they have been made that it is not possible to attribute to each one of them a separate and undivided right in the whole work so made.

**Art. 5.** The protection provided by this Law shall be accorded to works from the time at which they are fixed in a material medium, regardless of their merit, intended purpose or form of expression.

The recognition of copyright and neighboring rights shall not require registration or documentation of any kind, or be subject to compliance with any formality.

**Art. 6.** Fixation means the incorporation of letters, numbers, signs, sounds, images and other elements by means of which the work has been expressed, or digital representations thereof, which, in any form or material medium, including an electronic medium, enables the said work to be perceived, reproduced or otherwise communicated.

**Art. 7.** Foreign authors or owners of rights and their successors in title shall have the same rights as nationals under this Law and international treaties on copyright and neighboring rights signed and ratified by Mexico.

**Art. 8.** Performers, publishers and producers of phonograms and videograms and broadcasting organizations that have effected, respectively, the first fixing of their performances, their publications, the first fixing of the sounds of their performances or the images of their videograms or the communication of their broadcasts outside the national territory shall benefit from the protection accorded by this Law and the international treaties on copyright and neighboring rights signed and ratified by Mexico.

**Art. 9.** All the prescribed periods that determine the protection granted by this Law shall be calculated as from the first of January of the year following that in which the reference event for the start of the calculation occurred, except where this Law itself provides otherwise.

**Art. 10.** Where this Law does not contain relevant provisions, trade legislation, the Civil Code for the Federal District on general matters and for the Republic on Federal matters and the Federal Law on Administrative Procedure shall apply.

## **Title II Copyright**

### **Chapter I General Provisions**

**Art. 11.** Copyright is the recognition given by the State to a creator of any of the literary and artistic works specified in [Article 13](#) of this Law, by virtue of which it grants its protection to the author's enjoyment of exclusive prerogatives and privileges of personal and economic character. The former constitute moral rights and the latter economic rights.

**Art. 12.** The author is the natural person who has created a literary or artistic work.

**Art. 13.** The copyright referred to in this Law shall be recognized in respect of works in the following categories:

- (I) literary works;
- (II) musical works with or without words;
- (III) dramatic works;
- (IV) dances;
- (V) pictorial works or works of drawing;
- (VI) sculptures and works of three-dimensional art;
- (VII) works of caricature and short stories;
- (VIII) architectural works;
- (IX) cinematographic and other audiovisual works;
- (X) radio and television programs;
- (XI) computer programs;
- (XII) photographic works;
- (XIII) works of applied art, including works of graphic or textile design;
- (XIV) works of compilation, consisting of collections of works such as encyclopedias, anthologies and works or other elements like databases, provided that the said collections constitute intellectual creations by reason of the selection or arrangement of their contents or subject matter.

Other works which may by analogy be considered literary or artistic works shall be included in the category that most closely corresponds to their nature.

**Art. 14.** The following shall not benefit from the copyright protection referred to in this Law:

- (I) ideas in themselves, formulas, solutions, concepts, methods, systems, principles, discoveries, processes and inventions of any kind;
- (II) the industrial or commercial exploitation of the ideas embodied in works;
- (III) schemes, plans or rules for performing mental acts, playing games or doing business;
- (IV) letters, digits or colors in isolation, except where they are stylized to such an extent that they become original designs;
- (V) names and titles or phrases in isolation;
- (VI) mere layouts or blank forms for completion with any kind of information, and related instructions;
- (VII) unauthorized reproductions or imitations of coats of arms, flags or emblems of any country, State, municipality or equivalent political division, or the names, abbreviated names, symbols or emblems of intergovernmental or non-governmental international organizations, or those of any other officially recognized organization, and also the verbal designation thereof;
- (VIII) legislative, regulatory, administrative or judicial texts, and official translations thereof; where they are published, they must conform to the official text, and they shall confer no exclusive right of publication; nevertheless, protection shall be available for parallel

texts, interpretations, comparative studies, annotations, commentaries and other similar works that entail on the part of their author, the creation of an original work;

- (IX) the information content of news, whereas the form of expression thereof is protected;
- (X) information in everyday use, such as proverbs, sayings, legends, facts, calendars and scales of measurement.

**Art. 15.** Literary and artistic works published in newspapers or magazines or broadcast by radio, television or other communication media shall not lose their legal protection on account of that fact.

**Art. 16.** The work may be brought to public notice by the acts described below:

- (I) disclosure: the act of making a literary or artistic work accessible to the public by any means for the first time, as a result of which it ceases to be unpublished;
- (II) publication: the act of reproducing the work in tangible form and making it available to the public in the form of copies, or of storing it permanently or temporarily in an electronic medium, in such a way that the public may read it or perceive it by sight, touch or hearing;
- (III) communication to the public: the act by which the work becomes generally accessible by any means or process of dissemination that does not consist of the distribution of copies;
- (IV) public performance: the presentation of a work by any means to listeners or viewers without such act being restricted to a private group or family circle; a performance is not considered public where the work is performed within the confines of a school or public or private welfare institution, provided that there is no gainful intent;
- (V) distribution to the public: the act of making the original or copies of the work available to the public by sale or rental, or any other general form;
- (VI) reproduction: the making of one or more copies of a work, phonogram or videogram in any tangible form, including permanent or temporary storage in an electronic medium, and also the making two-dimensional of a three-dimensional work or vice versa.

**Art. 17.** Works protected by this Law that are published shall display the notice "Derechos Reservados" (Reserved Rights) or the abbreviation "D.R.," followed by the © symbol, the full name and address of the owner of the copyright and the year of first publication. Those particulars shall be displayed in a visible place. Failure to meet these requirements shall not cause loss of copyright, but shall make the licensee or publisher liable to the sanctions laid down in this Law.

## **Chapter II Moral Rights**

**Art. 18.** The author shall be the sole, original and perpetual owner of the moral rights in works created by him.

**Art. 19.** Moral rights shall be regarded as vesting in the author and shall be inalienable, imprescriptible, unrenounceable and unattachable.

**Art. 20.** The right to exercise moral rights shall belong to the actual creator of the work and to his heirs. In the absence of heirs, or in the case of works in the public domain, anonymous works or works protected by [Title VII](#) of this Law, the State shall exercise the said rights in accordance with the following Article insofar as the works concerned are of interest to the national cultural heritage.

**Art. 21.** The owner of the moral rights may at any time:

- (I) decide whether the work is to be disclosed and if so in what form, or whether it is to remain unpublished;
- (II) demand recognition of his authorship in relation to the work created by him, or decide that it is to be disclosed as an anonymous or pseudonymous work;
- (III) demand respect for the work and object to any distortion, mutilation or other modification thereof, or any act or action in relation to the work that might detract from its merit or prejudice its author's reputation;
- (IV) amend the work;
- (V) withdraw the work from the market;
- (VI) object to the attribution to the author of a work not created by him; any person to whom a work not created by him is attributed may exercise the right referred to in this subparagraph.

Heirs may exercise only the rights provided for in [subparagraphs \(I\), \(II\), \(III\) and \(VI\)](#) of this Article, and where applicable the State may exercise only the rights provided for in [subparagraphs \(III\) and \(VI\)](#) of this Article.

**Art. 22.** Unless otherwise agreed between the co-authors, the director or maker of an audiovisual work shall exercise the moral rights in the said work as a whole, without prejudice to the rights belonging to the other co-authors in relation to their own contributions, or to those that might be exercised by the producer in accordance with this Law and the provisions of [Article 99](#) thereof.

**Art. 23.** Unless otherwise agreed, authors who submit works for use in advertising or other promotional announcements shall be understood to have authorized the omission of their authors' credit in connection with the use or exploitation thereof, but without thereby renouncing their moral rights.

### Chapter III Economic Rights

**Art. 24.** By virtue of his economic rights, the author shall have the right to exploit his works exclusively or to authorize others to exploit them, in any form within the limits specified by this Law and without prejudice to the ownership of the moral rights referred to in [Article 21](#) thereof.

**Art. 25.** The owner of the economic rights shall be the author, his heir or the person who has acquired them on any grounds.

**Art. 26.** The author shall be the original owner of the economic rights, and his heirs or successors in title on whatever ground shall be considered secondary owners.

**Art. 26 bis.** The author and his successor shall enjoy the right to be paid a royalty for the public communication or transmission of his work by any medium. Copyright shall be inalienable. Such royalty shall be paid directly by the person carrying out the public communication or transmission of the works directly to the author, or the collective management society representing him, in accordance with the provisions of Articles 200 and 202(V) and (VI) of this Law.

The amount of royalties should be agreed upon directly between the author, or where applicable, the collective management society attributable to them and the persons carrying out the public communication or transmission of the works in accordance with Article 27(II) and (III) of this Law. In the absence of agreement, the Institute shall establish a tariff in accordance with the procedure provided for in Article 212 of this Law.

[Article added DOF July 23, 2003](#)

**Art. 27.** The owners of the economic rights may authorize or prohibit:

(I) the reproduction, publication, editing or material fixation of a work, in the form of copies or originals, carried out in whatever medium, whether printed, phonographic, graphic, three-dimensional, audiovisual, electronic, **photographic** or other;

[Subparagraph amended DOF July 23, 2003](#)

(II) the communication of his work to the public in any of the following ways:

- (a) public presentation, recitation and performance in the case of literary and artistic works;
- (b) public showing by any means or process in the case of literary and artistic works;
- (c) public access by telecommunication;

(III) the public transmission or the broadcasting of their works by any process, including the transmission or retransmission of the works by:

- (a) cable;
- (b) optic fiber;
- (c) microwaves;
- (d) satellite;
- (e) any other known or emerging means;

[Item amended DOF July 23, 2003](#)

(IV) the distribution of the work, including sale or other forms of transfer of the ownership of the physical material in which it is embodied, and also any form of transfer of the use or exploitation thereof; where distribution is effected by means of sale, the right of opposition shall be considered exhausted on the first sale, except in the case expressly provided for in [Article 104](#) of this Law;

(V) the importation into the national territory of copies of the work made without their authorization;



(VI) the disclosure of derived works, in any of the forms that such works may take, including translations, adaptations, paraphrased versions, arrangements and transformations;

(VII) any public use of the work except in cases expressly provided for in this Law.

**Art. 28.** The rights referred to in the foregoing Article shall be mutually independent, as shall each of the forms of exploitation.

**Art. 29.** Economic rights shall remain in force for:

(I) the life of the author and 100 years after his death; where the work belongs to two or more co-authors, the 100 years shall be counted as from the death of the last co-author; and

[Subparagraph amended DOF July 23, 2003](#)

(II) one hundred years following the disclosure:

[Subparagraph amended DOF July 23, 2003](#)

(a) of posthumous works, where it occurs within the term of protection referred to under [\(I\)](#);

(b) of works made in the course of official duties performed on behalf of the Federation, federated bodies or municipalities. Where the owner of the economic rights who is not the author dies without heirs, the right to exploit or authorize the exploitation of the work shall accrue to the author or, in the absence of the author, to the State, acting through the Institute, which shall respect the vested interests of third parties. When the terms provided for in the subparagraphs of this Article have expired, the work shall fall into the public domain.

### **TITLE III Transfer of Economic Rights**

#### **Chapter I General Provisions**

**Art. 30.** The owner of the economic rights may freely, subject to the provisions of this Law, transfer his economic rights or grant exclusive or non-exclusive licenses for use. Any transfer of economic rights shall be for consideration and temporary. In the absence of agreement on the amount of remuneration or the procedure for setting it, or on the time limits for the payment thereof, the competent courts shall decide.

Acts, agreements and contracts by which economic rights and licenses granted are transferred shall invariably be concluded in writing, failing which they shall be null and void as of right.

**Art. 31.** Any transfer of economic rights shall provide for the grant to the author or to the owner of the economic rights, as the case may be, of a proportional share in the proceeds from the exploitation concerned, or a predetermined, fixed amount of remuneration. That right shall be unrenounceable.

**Art. 32.** The acts, agreements and contracts by which economic rights are transferred shall be entered in the Public Copyright Register in order to be binding on third parties.

**Art. 33.** In the absence of any express provision, any transfer of economic rights shall be deemed to be for a term of five years. A term of more than 15 years may only be agreed upon in exceptional cases where dictated by the nature of the work or the scale of the required investment.

**Art. 34.** Future production may only be the subject of a contract in the case of a specific work the characteristics of which have to be laid down in the said contract. The global transfer of future

works shall be null and void, as shall any provisions whereby the author undertakes not to create any works.

**Art. 35.** Any license affording exclusive rights shall be expressly granted as such and shall give the licensee, where not otherwise agreed, the right to exploit the work to the exclusion of any other person, and also the right to grant non-exclusive authorizations to third parties.

**Art. 36.** The license affording exclusive rights shall oblige the licensee to take whatever action is necessary for the licensed exploitation to be effective, depending on the nature of the work and the customs and practices prevailing in the professional, industrial or commercial activity concerned.

**Art. 37.** Acts, agreements and contracts concerning economic rights that are executed before a notary, public broker or any authenticating official and are entered in the Public Copyright Register, shall be considered properly executed.

**Art. 38.** Copyright shall not be conditional on the ownership of the physical object in which the work is embodied. Unless expressly agreed otherwise, the disposal by the author or his successor in title of the material medium containing a work shall not constitute transfer to the acquirer of any of the economic rights in the said work.

**Art. 39.** Authorization to broadcast a protected work by radio, television or any other similar medium shall not include the right to rebroadcast it or exploit it.

**Art. 40.** The owners of authors' economic rights and neighboring rights may claim compensatory remuneration for any copying or reproduction done without their permission and not covered by any of the limitations provided for in [Articles 148](#) and [151](#) of this Law.

**Art. 41.** Economic rights may not be either attached or pledged, but the benefits and proceeds derived from the exercise thereof may be so used.

## **Chapter II**

### **Contract for the Publication of a Literary Work**

**Art. 42.** A publishing contract exists for a literary work where the author or the owner of the economic rights, as the case may be, undertakes to deliver a work to a publisher, who in turn undertakes to reproduce it, distribute it and sell it against payment of the agreed amounts to the owner of the economic rights.

The parties may agree that distribution and sale shall be carried out by others, and they may agree on the contents of the publishing contract, except where there are unrenounceable rights laid down in this Law.

**Art. 43.** Notwithstanding the provisions of [Article 33](#) of this Law, the period during which the rights in a literary work are assigned shall not be subject to any limitation.

**Art. 44.** The publishing contract for a work shall not constitute transfer of the other economic rights of the owner of the work.

**Art. 45.** The publisher may not publish the works with abridgements, additions, deletions or any other alterations without the written consent of the author.

**Art. 46.** The author shall retain the right to make such corrections, amendments, additions and improvements to his work as he considers appropriate before the work goes to press.

Where amendments make publication more costly, the author shall be obliged to compensate for any expenditure incurred on that account, unless otherwise agreed.

**Art. 47.** The publishing contract shall contain at least the following particulars:

- (I) the number of editions or reprints where applicable, that it covers;
- (II) the number of copies constituting each edition;
- (III) whether or not the material is delivered with exclusive rights;

(IV) the remuneration payable to the author or to the owners of the economic rights.

**Art. 48.** Unless otherwise agreed, the cost of publication, distribution, promotion, advertising, publicity or any other such action shall be payable by the publisher.

**Art. 49.** The publisher who has produced a given edition of a work shall have a preferential right to produce the following edition on the same conditions.

**Art. 50.** Where there is no agreement on the price that should be set on the copies for sale, the publisher shall have the right to set it.

**Art. 51.** Unless otherwise agreed, the right to publish one or more works by the same author separately shall not give the publisher the right to publish them together. The right to publish an author's works together shall not give the publisher the right to publish them separately.

**Art. 52.** The obligations of the author or owner of the economic rights shall be:

- (I) to deliver the work to the publisher by the time limits and on the conditions specified in the contract;
- (II) to be responsible to the publisher for the authorship and originality of the work, and for the undisturbed exercise of the rights transferred to him.

**Art. 53.** The publishers shall give the following particulars of the works that he publishes in a visible form and place on the said works:

- (I) his name, designation or business address and domicile;
- (II) the year of the edition or reprint;
- (III) the ordinal number corresponding to the edition or reprint, where possible;
- (IV) the International Standard Book Number (ISBN), or the International Standard Serial Number (ISSN) in the case of periodical publications;

**Art. 54.** The printer shall display in a visible form and place on works that he prints:

- (I) his name, designation or business address;
- (II) his domicile;
- (III) the date on which printing was completed.

**Art. 55.** Where the publishing contract does not specify the term within which the edition is to be completed and copies are to be placed on sale, it shall be understood that the period is one year following the delivery of the work ready for printing. If that period expires without the publisher having produced the edition, the owner of the economic rights may choose between demanding the fulfillment of the contract or terminating it by serving written notice on the publisher. In either case, the publisher shall indemnify the owner of the economic rights for damages and prejudice caused.

The time limit for placing the copies on sale may not exceed two years, beginning from the time at which the work was made available to the publisher.

**Art. 56.** The publishing contract shall end, regardless of its envisaged term, if the edition to which it relates is out of print, without prejudice to any actions brought under the contract itself, or if the publisher does not distribute the work on the agreed conditions. An edition shall be considered out of print when the publisher lacks sufficient copies thereof to meet the needs of the public.

**Art. 57.** Any person, whether natural person or legal entity, who publishes a work shall be obliged to state the author's name or pseudonym, as the case may be. If the work is anonymous, it shall be so stated. In the case of translations, compilations, adaptations or other versions, the name of the maker thereof shall also be given.

### **Chapter III Contract for the Publication of Musical Works**

**Art. 58.** A music publishing contract shall be a contract under which the author or owner of the economic rights, as the case may be, assigns the right of reproduction to the publisher and entitles him to carry out the fixation and phonographic reproduction of the work, its audiovisual synchronization, communication to the public, translation, arrangement or adaptation, and any other form of exploitation provided for in the contract; the publisher, for his part, shall undertake to disclose the work by all means available to him, receiving in return a share in the economic profits realized through the exploitation of the work, according to the agreed conditions.

However, in order to carry out audiovisual synchronization, adaptation for advertising purposes, translation, arrangement or adaptation, the publisher must in each specific case have the express permission of the author or his successors in title.

**Art. 59.** The following shall cause the contract to be terminated without exposing the author or owner of the economic rights to any liability:

- (I) where the publisher has not started to disclose the work within the period specified in the contract;
- (II) where the publisher fails at any time, without just reason, to disseminate the work;
- (III) where the work to which the contract relates has not generated economic benefits for the parties in the space of three years, in which case the publisher shall likewise not be liable.

**Art. 60.** The provisions on publishing contracts for literary works shall apply to music publishing contracts insofar as they are not at variance with the provisions of this Chapter.

### **Chapter IV Stage Performance Contract**

**Art. 61.** Under a stage performance contract the author or owner of the economic rights, as the case may be, shall grant to a natural person or legal entity, known as the impresario, the right to perform a literary, musical, literary-musical, dramatic or dramatico-musical, work, a work of dance or a mimed or choreographic work in public against monetary compensation; the impresario shall undertake to effect the performance on the agreed conditions and in accordance with the provisions of this Law.

The contract shall specify whether or not the rights granted are exclusive, and where appropriate the conditions and characteristics of direction or performance.

**Art. 62.** Where the period during which the work is to be performed to the public is not specified in the stage performance contract, it shall be understood to be one year.

**Art. 63.** The impresario shall be under the following obligations:

- (I) to ensure public performance on the agreed conditions;
- (II) to guarantee access to the performance free of charge to the author, the owner of the economic rights or their representatives;
- (III) to pay the agreed remuneration to the owner of the economic rights.

**Art. 64.** Unless otherwise agreed, the stage performance contract signed between the author and the impresario shall authorize the impresario to perform the work throughout the territory of the Republic of Mexico.

**Art. 65.** The provisions on publishing contracts for literary works shall apply to stage performance contracts insofar as they are not at variance with the provisions of this Chapter.

## **Chapter V Broadcasting Contract**

**Art. 66.** Under a broadcasting contract the author or owner of the economic rights, as the case may be, shall authorize a broadcasting organization to broadcast a work.

The provisions applicable to the broadcasts of such organizations shall apply as appropriate to those effected by cable, optic fiber, electromagnetic waves, satellite or any other comparable medium that serves for the remote communication to the public of protected works.

**Art. 67.** The provisions on publishing contracts for literary works shall apply to broadcasting contracts insofar as they are not at variance with the provisions of this Chapter.

## **Chapter VI Audiovisual Production Contract**

**Art. 68.** Under an audiovisual production contract, the authors or owners of the economic rights, as the case may be, shall grant the producer exclusive ownership of the economic rights of reproduction, distribution, communication to the public and subtitling of the audiovisual work, unless otherwise agreed. The foregoing shall not apply to musical works.

**Art. 69.** Where an author's contribution is not completed for reasons of *force majeure*, the producer may use the part already completed, subject to respect for the rights of the said author in that part, including the right of anonymity, and without prejudice to any indemnification that might be appropriate.

**Art. 70.** The effects of the production contract shall lapse as of right if the making of the audiovisual work does not start within the period specified by the parties or for reasons of *force majeure*.

**Art. 71.** The audiovisual work shall be considered completed when the final version has been produced in accordance with the agreement between the director or maker on the one hand and the producer on the other.

**Art. 72.** The provisions on publishing contracts for literary works shall apply to audiovisual production contracts insofar as they are not at variance with the provisions of this Chapter.

## **Chapter VII Advertising Contracts**

**Art. 73.** Advertising contracts shall be those whose purpose is the exploitation of literary or artistic works for promotional or identification purposes in advertising or commercial announcements in any medium of communication.

**Art. 74.** Advertising or commercial announcements may be disseminated for a period not exceeding six months following the first communication. After that time limit communication shall be for payment for each additional period of six months, even if it is effected only for parts of such a period, with a payment of at least that originally contracted for. After three years have elapsed following the first communication, use shall require the permission of the authors of the works used and the owners of the neighboring rights therein.

**Art. 75.** In the case of advertising in printed media, the contract shall specify the physical medium or media in which the work is to be reproduced and, in the case of pamphlets or media other than periodical publications, the number of copies constituting the print-run. There shall be an express agreement for every additional print-run.

**Art. 76.** The provisions on publishing contracts for literary works or musical works and those on audiovisual production contracts shall apply to advertising contracts in so far as they are not at variance with the provisions of this Chapter.

## TITLE IV Copyright Protection

### Chapter I General Provisions

**Art. 77.** A person whose name or pseudonym, either known or registered, appears as that of the author of a work shall be considered such in the absence of proof to the contrary, and actions brought by that person for the violation of his rights shall consequently be entertained by the competent courts.

With regard to works written under a pseudonym or whose authors have not made themselves known, litigation for the protection of the rights therein shall be the responsibility of the person who makes them known to the public with the author's consent, which person shall function as an administrator until such time as the owner of the rights attends the proceedings concerned, unless previously agreed otherwise.

**Art. 78.** Derived works such as arrangements, compendia, expanded editions, translations, adaptations, paraphrased versions, compilations, collections and transformations of literary or artistic works shall be protected with respect to their own original content, but they may only be exploited when they have been authorized by the owner of the economic rights in the original work, with the prior consent of the holder of moral rights, in the cases provided for under Article 21(III) of the Law.

[Paragraph amended DOF July 23, 2003](#)

Where derived works are in the public domain, they shall be protected with respect to their own original content, but that protection shall not include the right of exclusive use of the original work, or afford the right to prevent the making of other versions thereof.

**Art. 79.** The translator or owner of the economic rights in the translation of a work who proves that he obtained permission to translate the work from the owner of the economic rights shall enjoy the protection afforded by this Law for the translation concerned. The said translation may not therefore be reproduced, amended, published or altered without the translator's consent.

Where a translation is done under the foregoing paragraph and shows few or only minor differences in relation to another translation, it shall be considered a mere reproduction.

**Art. 80.** In the case of works of joint authorship, the rights granted by this Law shall accrue to all the authors in equal shares, unless otherwise agreed or unless the authorship of each one is specified.

In order to assert the rights provided for in this Law, the consent of the majority of the authors shall be required, and that consent shall commit all of them. The minority, if any, shall not be obliged to contribute to any costs that might arise, subject to their deduction from any benefits that might be obtained.

Where the majority make use of or exploit the work, they shall deduct the amount of the expenses incurred from the total proceeds and hand over to the minority the share to which the latter are entitled.

Where the contribution made by each of the authors is clearly identifiable, those authors may freely exercise the rights referred to in this Law with respect to the part attributable to them.

Unless otherwise agreed, each of the co-authors of a work may seek the registration of the whole work.

On the death without heirs of any of the co-authors or owners of economic rights, his rights shall be added to those of the others.

**Art. 81.** Unless otherwise agreed, the copyright in a work with music and words shall belong in equal shares to the author of the literary part and to the composer of the musical part. Each may freely exercise the rights in the part attributable to him or in the whole work, and in the latter case

he shall unmistakably notify the other co-author, mentioning that co-author's name on the publication, and in addition shall pay him the share to which he is entitled when the rights are exercised for profit-making purposes.

**Art. 82.** Persons who contribute articles to newspapers, magazines, radio or television programs or other communication media shall, unless otherwise agreed, retain the right to publish the articles in the form of a collection after they have been published in the newspaper or magazine or broadcast by the broadcasting station for which they are working.

**Art. 83.** Unless otherwise agreed, the person, whether natural person or legal entity, who commissions the production of a work or produces such a work with others working for remuneration shall enjoy the ownership of the economic rights therein, and the rights relating to the disclosure and integrity of the work and the making of collections involving this type of creation shall accrue to him.

The person who takes part in the making of the work against remuneration shall have the right to the express mention of his status as author or performer of the part or parts in the creation of which he has been involved.

**Art. 83 bis.** Further to the provisions of the previous Article, the person who is paid to participate in carrying out a musical work, shall be entitled to be paid the royalties created by the public communication or transmission of the work, according to Articles 26 bis and 117 bis of this Law.

For a work to be considered commissioned, the terms of the contract shall be clear and precise. In the case of doubt, the interpretation most favorable to the author shall prevail. The author shall also be entitled to prepare his contract where he has been commissioned to create a work.

[Article added DOF July 23, 2003](#)

**Art. 84.** In the case of a work made in the course of employment under an individual employment contract executed in writing, it shall be presumed, in the absence of agreement to the contrary, that the economic rights are shared equally between the employer and the employee.

The employer may disclose the work without the employee's authorization, but the reverse may not be done. In the absence of an individual employment contract executed in writing, the economic rights shall accrue to the employee.

## **Chapter II**

### **Photographic, Three-Dimensional and Graphic Works**

**Art. 85.** Unless otherwise agreed, the author who has disposed of his work of painting, sculpture or three-dimensional art in general shall be regarded as having granted the acquirer not the right to reproduce it, but the right to display it and include it in catalogues. In any event, the author may object to the exercise of those rights where the exhibition is conducted in a manner prejudicial to his honor or professional reputation.

**Art. 86.** Professional photographers may only display photographs produced on commission, as specimens of their work, after authorization has been obtained. The above shall not be required where the purposes are cultural, educational or for non-profit publication.

[Article amended DOF July 23, 2003](#)

**Art. 87.** A portrait may only be used or published with the express consent of the person portrayed or that of his representatives or of the owners of the corresponding rights. The authorization to use or publish the portrait may be revoked by the person who gave it, who in that case shall be liable for the damages and prejudice that might be caused by such revocation.

When a person allows his portrait to be made against remuneration, it shall be presumed that he has given the consent referred to in the foregoing paragraph and shall not have the right to revoke it, provided that the portrait is used in the manner and for the purposes agreed.

The consent referred to in this Article shall not be necessary in the case of a portrait of a person who constitutes a minor part of a whole, or where the photograph is taken in a public place for information or journalistic purposes.

The rights accorded to the persons portrayed shall last for 50 years following their death.

**Art. 88.** Unless otherwise agreed, the exclusive right to reproduce a pictorial, photographic or graphic work or a work of sculpture shall not include the right to reproduce it on any kind of article, or for the commercial advertising of such an article.

[Article amended DOF July 23, 2003](#)

**Art. 89.** A serial graphic and photographic work shall be one resulting from the making of several copies from a matrix made by the author.

[Article amended DOF July 23, 2003](#)

**Art. 90.** For the purposes of this Law, duly signed and numbered copies of a serial graphic and photographic work shall be considered original.

[Article amended DOF July 23, 2003](#)

**Art. 91.** The provisions of this Chapter shall apply to sculptures made in a limited edition of numbered castings from a mold.

**Art. 92.** Unless otherwise agreed, the author of a work of architecture may not prevent the owner of the said work from making alterations, but he shall have the right to prohibit his name from being associated with the work so altered.

**Art. 92 bis.** The authors of three-dimensional and photographic works of art shall be entitled to receive from the vendor a share of the price of any resale under similar conditions as at public auction, commercial establishment, or with the intervention of a trader or commercial agent, with the exception of works of applied art.

- (I) The above share of the authors shall be established by the Institute under Article 212 of the Law.
- (II) The right established in this Article shall be unrenounceable, shall be transferred by inheritance and shall be canceled one hundred years after the death or declaration of death of the author.
- (III) Auctioneers, owners of commercial establishments, or commercial agents who have acted in the resale shall so notify the relevant collective management society or, where applicable, the author or his successors, within two months, and shall provide the necessary documentation to carry out the given settlement. Also, where acting for or on behalf of the vendor, auctioneers shall be jointly and severally liable to settle payment of the royalty and to that effect shall retain from the price the above share. In all cases, auctioneers shall be considered to have received the amount of such share.
- (IV) The same right shall apply with respect to the original manuscripts of literary and artistic works.

[Article added DOF July 23, 2003](#)

**Art. 93.** The provisions of this Chapter shall apply to those aspects of works of applied art that are original. The use to which those works are put shall not be eligible for protection.

### **Chapter III Cinematographic and Audiovisual Works**

**Art. 94.** Audiovisual works means those expressed as a sequence of associated images, with or without incorporated sound, that are made perceptible by mechanical means and produce an impression of movement.



**Art. 95.** Without prejudice to the rights of the authors of the works adapted for or included in it, the audiovisual work shall be protected as an original work.

**Art. 96.** The owners of economic rights may use their respective contributions to the audiovisual work for exploitation in their own right, provided that the normal exploitation of the said work is not thereby prejudiced.

**Art. 97.** The following shall be the authors of an audiovisual work:

- (I) the director or maker;
- (II) the authors of the plot, adaptation, screenplay or dialog;
- (III) the authors of the musical compositions;
- (IV) the photographer;
- (V) the authors of cartoons and animated pictures.

Unless otherwise agreed, the producer shall be considered the owner of the economic rights in the whole work.

**Art. 98.** The producer of the audiovisual work shall be the person, whether natural person or legal entity, who takes the initiative for the making of a work, coordinates it and assumes responsibility for it, or who sponsors it.

**Art. 99.** Unless otherwise agreed, the contract concluded between the author or the owners of the economic rights, as the case may be, and the producer shall not imply unlimited, exclusive assignment to the producer of the economic rights in the audiovisual work.

Once the authors or owners of economic rights have undertaken to make their contributions to the making of the audiovisual work, they may not object to the reproduction, distribution, public performance, cable transmission, broadcasting, communication to the public or subtitling and dubbing of the texts of the said work.

Without prejudice to the rights of the authors, the producer may perform all such acts as are necessary for the exploitation of the audiovisual work.

**Art. 100.** The provisions contained in this Chapter shall apply as appropriate to broadcast works.

#### **Chapter IV Computer Programs and Databases**

**Art. 101.** Computer program means the original expression in any form, language or code of a set of instructions which, by virtue of a particular sequence, structure and organization, are intended to make a computer or other device carry out a specific task or function.

**Art. 102.** Computer programs shall be protected on the same terms as literary works. The said protection shall extend to both operating programs and application programs, whether in source code or object code form. Computer programs whose purpose is to have harmful effects on other programs or devices shall be excluded.

**Art. 103.** Unless otherwise agreed, the economic rights in a computer program and its documentation, where they have been created by one or more employees in the course of their duties or on instructions from their employer, shall belong to the employer.

As an exception to the provisions of [Article 33](#) of this Law, the period for the assignment of rights in connection with computer programs shall not be subject to any limitation.

**Art. 104.** As an exception to the provisions of [Article 27\(IV\)](#), the owner of the copyright in a computer program or database shall retain the right to authorize or prohibit the lending of copies thereof, even after the sale of the said copies. This principle shall not apply where the copy of the computer program does not in itself constitute an essential element of the license for use.

**Art. 105.** The lawful user of a computer program may make as many copies of the program as the license granted by the owner of the copyright allows him, or a single copy, provided that the copy is:

- (I) essential for the use of the program;
- (II) intended solely as a back-up copy to replace the legitimately acquired copy when that copy cannot be used owing to damage or loss; the back-up copy shall be destroyed when the user's right to make use of the computer program comes to an end.

**Art. 106.** The economic rights in a computer program shall include the right to authorize or prohibit:

- (I) the permanent or temporary reproduction of all or part of the program in any medium and form;
- (II) the translation, adaptation, arrangement or any other modification of a program, and the reproduction of the resulting program;
- (III) any form of distribution of the program itself or of a copy, including rental;
- (IV) decompilation, reverse engineering processes for a computer program.

**Art. 107.** Databases or other materials in machine-readable or otherwise decipherable form which, on account of the selection and arrangement of their contents, constitute intellectual creations, shall be protected as compilations. Such protection shall not extend to the data and materials in themselves.

**Art. 108.** Databases that are not original shall nevertheless be protected during a period of five years for the exclusive use of the person who developed them.

**Art. 109.** Access to information of private character concerning persons that is contained in the databases referred to in the foregoing Article, and also the publication, reproduction, disclosure, communication to the public and transmission of such information, shall require prior authorization by the persons concerned.

The foregoing shall not apply to investigations by the authorities responsible for the administration and enforcement of justice according to the relevant legislation, or to access to public archives on the part of persons authorized by the law, provided that the access is had according to the relevant procedures.

**Art. 110.** The owner of the economic rights in a database shall have the exclusive right, with respect to the form of expression of the structure of the said database, to authorize or prohibit:

- (I) its permanent or temporary reproduction, either wholly or in part, by any means and in any form;
- (II) its translation, adaptation, rearrangement or modification in any other way;
- (III) distribution of the original or copies of the database;
- (IV) its communication to the public;
- (V) reproduction and distribution or communication to the public of the results of the operations mentioned in [subparagraph \(II\)](#) of this Article.

**Art. 111.** Electronically operated programs that contain visual, sound, three-dimensional or animated elements shall be protected by this Law with respect to their own original features.

**Art. 112.** It shall be prohibited to import, manufacture, distribute and use apparatus, or render services, whose purpose is to remove the technical protection of computer programs, transmissions by electromagnetic waves and over telecommunication networks, and programs containing electronic elements as mentioned in the foregoing Article.

**Art. 113.** Works and performances transmitted by electronic means across the electromagnetic field and over telecommunication networks, and the results obtained from such transmission, shall be protected by this Law.

**Art. 114.** The transmission of works protected under this Law by cable, electromagnetic waves, satellite and other similar means shall be brought into conformity with Mexican legislation and shall in all cases and at all times comply with the provisions on the subject.

## TITLE V Neighboring Rights

### Chapter I General Provisions

**Art. 115.** The protection provided for in this Title shall leave intact and in no way affect the protection of the copyright in literary and artistic works. Consequently, none of the provisions of this Title may be interpreted in a manner that detracts from that protection.

### Chapter II Performers

**Art. 116.** Performer means the actor, narrator, speaker, singer, musician, dancer or any other person who performs a literary or artistic work or an expression of folklore or who engages in a similar activity, even though he may have no pre-existing text to guide his performance. Extras and understudies are not included in this definition.

**Art. 117.** The performer shall have the right to have his name associated with his performances, and also to object to any distortion or mutilation of his performance or other adverse act in relation to it that might damage his prestige or reputation.

**Art. 117 bis.** The performer shall have the unrenounceable right to receive remuneration for the use or exploitation of his performances which are carried out for direct or indirect profit-making purposes, in any medium, communication or provision to the public.

[Article added July 23, 2003](#)

**Art. 118.** Performers shall have the right to object to:

- (I) the communication of their performances to the public;
- (II) the fixing of their performances in a physical medium; and
- (III) the reproduction of such a fixation of their performances.

The above rights shall be considered exhausted once the performer has authorized the incorporation of his performance in a visual, sound or audiovisual fixation, provided that the persons using such physical media for profit-making purposes make the corresponding payment.

[Paragraph amended July 23, 2003](#)

**Art. 119.** Performers who collectively participate in one and the same performance, such as musical groups, choirs, orchestras or ballet or theater companies, shall designate a representative from among themselves for the exercise of the right of opposition referred to in the foregoing Article.

In the absence of such designation, it shall be presumed that the leader of the group or company is acting as representative.

**Art. 120.** Performance contracts shall specify the times, periods, remuneration and other terms and procedures associated with the fixing, reproduction and communication to the public of the said performance.

**Art. 121.** Unless otherwise agreed, the conclusion of a contract between a performer and a producer of audiovisual works with a view to the production of an audiovisual work shall include the right to fix and reproduce the performer's performances and communicate them to the public. The foregoing shall not include the right to use the sound and the images fixed in the audiovisual work separately, unless agreed otherwise.

**Art. 122.** The duration of the protection granted to performers shall be 75 years beginning from:

[Paragraph amended July 23, 2003](#)

- (I) the first fixing of the performance in a phonogram;
- (II) the first performance of works not recorded on phonograms;
- (III) the first transmission by radio, television or other medium.

### **Chapter III Book Publishers**

**Art. 123.** A book shall be any unitary, non-periodical publication of literary, artistic, scientific, technical, educational, informatory or recreational character that is printed in any medium, the issue of which takes place entirely in one operation, either in one volume or in two or more volumes or pamphlets issued at intervals. It shall also include supplementary material in any kind of medium, including electronic media, that constitutes a unitary whole with the book and cannot be marketed separately.

**Art. 124.** The book publisher shall be the person, whether natural person or legal entity, who chooses or plans a publication and carries out the production thereof either himself or through third parties.

**Art. 125.** Book publishers shall have the right to authorize or prohibit:

- (I) the direct or indirect reproduction of all or part of their books, and the exploitation thereof;
- (II) the importation of copies of their books without their authorization;
- (III) the first distribution to the public of the original and each copy of their books by sale or other means.

**Art. 126.** Book publishers shall have exclusive rights in the typeface and graphic features of each book insofar as they are original.

**Art. 127.** The protection referred to in this Chapter shall be for 50 years as from the first publication of the book concerned.

**Art. 128.** Periodical publications shall benefit from the same protection as this Chapter grants to books.

### **Chapter IV Producers of Phonograms**

**Art. 129.** A phonogram shall be any fixation exclusively of the sounds of a performance or other sounds, or digital representations thereof.

**Art. 130.** A producer of phonograms shall be a person, whether natural person or legal entity, who first fixes the sounds of a performance or other sounds, or a digital representation thereof, and shall be responsible for the manufacture, reproduction and publication of phonograms.

**Art. 131.** Producers of phonograms shall have the right to authorize or prohibit:

- (I) the direct or indirect reproduction of all or part of their phonograms, and also the direct or indirect exploitation thereof;
- (II) the importation of copies of phonograms made without their authorization;
- (III) the distribution to the public of the original and every copy of the phonogram by sale or other means, including distribution by means of signals or broadcasts;
- (IV) the adaptation or transformation of the phonogram;
- (V) the commercial rental of the original phonogram or a copy thereof, even after it has been sold, provided that the authors or owners of the economic rights have not reserved it for themselves.

**Art. 131 bis.** Producers of phonograms shall be entitled to receive remuneration for the use or exploitation of their phonograms when for direct or indirect profit-making purposes, in any medium or communication to the public or making them available.

[Article added July 23, 2003](#)

**Art. 132.** Phonograms shall display the © symbol accompanied by a mention of the year of first publication.

Failure to meet the above requirements shall not cause the producer of the phonogram to lose his rights, but shall make him liable to the sanctions provided for by law.

It shall be presumed that, in the absence of proof to the contrary, the natural person or legal entity whose name appears on legitimate copies of the phonogram, preceded by the circled P symbol and followed by the year of first publication, is the producer of the phonogram.

Producers of phonograms shall notify collective management societies of the particulars on the labels of their products and on the master copies that are exported, with a mention of the country in each case.

[Article amended July 23, 2003](#)

**Art. 133.** Once the phonogram has been lawfully brought into any commercial circuit, neither the performers nor the phonogram producers may object to its direct communication to the public, provided that the persons using it for profit-making purposes make the corresponding payment to them. In the absence of agreement between the parties, payment of royalties shall be made in equal shares.

[Article amended July 23, 2003](#)

**Art. 134.** The protection referred to in this Chapter shall be for 75 years following the first fixation of the sounds on the phonogram.

[Article amended July 23, 2003](#)

## **Chapter V Producers of Videograms**

**Art. 135.** A videogram shall be taken to mean the fixation of related images, with or without incorporated sound, that give an impression of movement, or a digital representation of such images, taken from an audiovisual work or the performance of another work or of an expression of folklore, and also other images of the same kind, with or without sound.

**Art. 136.** A producer of videograms shall be the person, whether natural person or legal entity, who first fixes related images, with or without incorporated sound, that give an impression of movement, or a digital representation of such images, whether constituting or not constituting an audiovisual work.

**Art. 137.** The producer shall enjoy with respect to his videograms the right to authorize or prohibit their reproduction, distribution and communication to the public.

**Art. 138.** The term of the rights provided for in this Chapter shall be 50 years from the first fixing of the images on the videogram.

## **Chapter VI Broadcasting Organizations**

**Art. 139.** For the purposes of this Law, an entity holding a concession or license that is capable of emitting sound or visual signals or both that may be received by an audience of more than one person shall be considered a broadcasting organization.

**Art. 140.** Broadcasting or transmission means the communication of works, sounds or sounds and images by means of electromagnetic waves, cable, optic fiber or other comparable media. The concept of broadcasting likewise includes the sending of signals from a terrestrial station towards a satellite for subsequent broadcasting.

**Art. 141.** Retransmission shall be the simultaneous transmission by one broadcasting organization of a broadcast from another such organization.

**Art. 142.** An ephemeral recording shall be a recording made by a broadcasting organization where, for technical or scheduling reasons, and for the purposes of a single subsequent broadcast, it has to record or fix, in its own studios, the image, sound or both of musical selections or parts thereof, scientific working papers, lectures or studies, literary, dramatic, choreographic and dramatico-musical works, computer programs and, generally, any work suitable for broadcasting.

**Art. 143.** Signals may be:

- (I) in terms of their accessibility to the public:
  - (a) coded, enciphered or encrypted: those that have been altered with a view to being received and decrypted solely and exclusively by those who have previously acquired that right from the broadcasting organization that emitted them;
  - (b) free: those that may be received by means of any apparatus suitable for receiving the signals;
- (II) in terms of their time of emission:
  - (a) direct: those that carry live programs or events;
  - (b) deferred: those that carry prerecorded programs or events.

**Art. 144.** Broadcasting organizations shall have the right to authorize or prohibit the following in relation to their broadcasts:

- (I) retransmission;
- (II) deferred transmission;
- (III) simultaneous or deferred distribution by cable or any other system;
- (IV) fixation in a material medium;
- (V) reproduction of fixations;
- (VI) communication to the public by any means and in any form for direct profit-making purposes.

**Art. 145.** A person shall be liable for damages and prejudice who, without the permission of the lawful distributor of the signal:

- (I) decrypts a coded program-carrying satellite signal;
- (II) receives and distributes a coded program-carrying satellite signal that has been unlawfully decrypted;
- (III) participates or assists in the manufacture, importation, sale or rental of, or in the performance of any act serving to supply, a device or system that substantially aids in the decrypting of a coded program-carrying satellite signal.

**Art. 146.** The rights of broadcasting organizations referred to in this Chapter shall have a term of 50 years as from the first original broadcasting or transmission of the program.

[Article amended July 23, 2003](#)

## **Title VI Limitations on Copyright and Neighboring Rights**

### **Chapter I Limitation in the Public Interest**

**Art. 147.** The publication or translation of literary or artistic works shall be considered in the public interest where they are necessary for the advancement of science and national culture and education. Where it is not possible to obtain the consent of the owner of the corresponding economic rights, the Federal Executive may, through the Secretariat of Public Education and either *ex officio* or at the request of a party, license the publication or translation in question against payment of compensatory remuneration. The foregoing shall be without prejudice to any international treaties on copyright and neighboring rights signed and ratified by Mexico.

## **Chapter II Limitations on Economic Rights**

**Art. 148.** Literary and artistic works that have already been disclosed may only be used in the following cases without the consent of the owner of the economic rights and without remuneration, provided that the normal exploitation of the work is not adversely affected thereby and provided also that the source is invariably mentioned and that no alteration is made to the work:

- (I) quotation of texts, provided that the amount quoted may not be considered a substantial, simulated reproduction of the contents of the work;
- (II) reproduction of articles, photographs, illustrations and commentary relating to current events that have been published in the press or broadcast by radio or television, or any other medium of communication, if this has not been expressly prohibited by the owner of the rights;
- (III) reproduction of parts of the work for the purposes of scientific, literary or artistic criticism and research;
- (IV) reproduction of a literary or artistic work once, and in a single copy, for the personal and private use of the person doing it, and without gainful intent; a legal entity may not avail itself of the provisions of this subparagraph except where it is an educational or research institution, or is not devoted to trading activities;
- (V) reproduction of a single copy by archives or a library for reasons of security and preservation where the work is out of print, no longer catalogued and liable to disappear;
- (VI) reproduction for the purposes of evidence in judicial or administrative proceedings;
- (VII) reproduction, communication and distribution in drawings, paintings, photographs and audiovisual processes of works that are visible from public places.

**Art. 149.** The following may be done without authorization:

- (I) literary and artistic works may be used in shops or establishments open to the public that trade in copies of the said works, provided that no charge is made for admission and that the use does not go beyond the place in which the sale is effected and serves the sole purpose of promoting the sale of copies of the works;
- (II) ephemeral recordings may be made, subject to the following conditions:
  - (a) transmission shall take place within the period agreed for the purpose;
  - (b) no related or simultaneous broadcast or communication shall be made on the pretext of the recording;
  - (c) the recording shall afford entitlement to one broadcast only. The recording and fixation of the image and sound, carried out in the manner described above, shall not require any additional payment other than that due for the use of the works.

The provisions of this subparagraph shall not apply where the authors or performers have entered into an agreement for consideration that authorizes subsequent broadcasts.



**Art. 150.** There shall be no royalties for public performance where the following circumstances all obtain:

- (I) the performance takes the form of the communication of a transmission received direct by means of a radio or television receiving set of a type commonly used in private homes;
- (II) no charge is made for viewing or listening to the transmission, which also does not form part of a range of services;
- (III) the transmission received is not retransmitted for profit-making purposes;
- (IV) the receiving party is a minor operative or micro-industry.

**Art. 151.** The use of performances, phonograms, videograms or broadcasts shall not constitute a violation of the rights of the performers, producers of phonograms or videograms or broadcasting organizations where:

- (I) no direct economic benefit is sought;
- (II) only short fragments are used for information on current events;
- (III) the use is made for educational or scientific research purposes;
- (IV) the cases concerned are those contemplated in [Articles 147](#), [148](#) and [149](#) of this Law.

### **Chapter III Public Domain**

**Art. 152.** Works in the public domain may be freely used by any person, subject to the sole condition of respect for the moral rights of the authors concerned.

**Art. 153.** The use of the work of an anonymous author shall be free provided that the said author does not reveal his identity or that there is no recognized owner of economic rights.

## **TITLE VII Copyright in National Symbols and Expressions of Popular Culture**

### **Chapter I General Provisions**

**Art. 154.** The works to which this Title refers shall be protected independently of whether or not the individual authorship thereof may be determined or whether or not the term of protection accorded to the authors has expired.

### **Chapter II National Symbols**

**Art. 155.** The Mexican State shall be the owner of the moral rights in national symbols.

**Art. 156.** The use of national symbols shall conform to the provisions of the Law on the National Coat of Arms, Flag and Anthem.

### **Chapter III Popular Culture**

**Art. 157.** This Law shall protect literary and artistic works, works of popular art or craft works, and also all original manifestations in local languages, and the practices, customs and traditions of the multi-cultural society constituting the Mexican State that do not have an identifiable author.

**Art. 158.** Literary or artistic works, works of popular art or craft works that have evolved and are perpetuated in a community or ethnic group with its origins or roots in the Mexican Republic shall be protected by this Law against distortion intended to discredit the said works or prejudice the reputation or image of the community or ethnic group to which they belong.

**Art. 159.** The use of the literary or artistic works, works of popular art or craft works protected by this Chapter shall be free, provided that the provisions thereof are not contravened.

**Art. 160.** In any fixation, representation, publication, communication or use in any way of a literary or artistic work, work of popular art or craft work protected under this Chapter, the community or ethnic group or, where appropriate, the region of the Mexican Republic to which it is specific shall be mentioned.

**Art. 161.** The Institute shall be responsible for ensuring compliance with the provisions of this Chapter and assisting in the protection of the works covered by it.

## **TITLE VIII Registration of Rights**

### **Chapter I Public Copyright Register**

**Art. 162.** The purpose of the Public Copyright Register shall be to ensure the legal security of authors, owners of neighboring rights, the holders of the economic rights concerned and their successors in title, and also to afford sufficient publicity to works, instruments and documents through registration.

Literary and artistic works and neighboring rights shall be protected even if they are not registered.

**Art. 163.** The following may be entered in the Public Copyright Register:

- (I) literary or artistic works submitted by the authors thereof;
- (II) digests, arrangements, translations, adaptations or other versions of literary or artistic works, even when there is no proof of permission to disclose the work concerned given by the owner of the economic rights; such registration does not afford entitlement to publish or use the registered work in any way unless the appropriate authorization is proved; that fact shall be recorded both in the registration and in any certificates that are issued;
- (III) instruments and statements pertaining to the various collective management societies, including those that revise or amend them;
- (IV) agreements or treaties entered into by Mexican collective management societies with foreign counterparts;
- (V) instruments, agreements or contracts that in any way confer, alter, transfer, encumber or cancel economic rights;
- (VI) agreements or contracts relating to neighboring rights;
- (VII) powers of attorney granted for dealings with the Institute, where the representative powers conferred apply to all business that the principal might have to transact with it;

- (VIII) instructions given to collective management societies by their members;
- (IX) performance agreements or contracts entered into by performers;
- (X) the graphic and other distinctive characteristics of works.

**Art. 164.** The Public Copyright Registry shall have the following obligations:

- (I) to register, where appropriate, the works and documents filed with it.
- (II) to supply, to persons who so request, information on registrations and, except as provided in the following paragraphs, on documents recorded in the Register.

In the case of computer programs, publishing contracts and unpublished works, the issue of copies shall only be allowed with the permission of the owner of the economic rights or by court order.

Where the requesting person or authority requires a copy of a Register entry, the Institute shall issue a certified copy, but the removal of originals from the Register shall in no event be allowed. The judicial or administrative authorities that require access to originals shall inspect them on the premises of the Public Copyright Registry.

In the case of works fixed on material other than paper, the judicial or administrative authority, the requester or where appropriate the party offering the proof shall provide the technical means with which to make the copy. Reproductions made under this Article may only be used as evidence in the judicial or administrative proceedings concerned.

(III) To refuse the registration of:

- (a) anything that is not eligible for protection under [Article 14](#) of this Law;
- (b) works in the public domain;
- (c) anything already entered in the Register;
- (d) a trademark, except where the subject matter thereof is also an artistic work and the person seeking recognition as the owner of the copyright is also the owner of the trademark;
- (e) advertising and promotional campaigns;
- (f) any document in connection with which there is a margin note that suspends the effects of registration owing to the notification of a copyright judgment or the initiation of prior investigations;
- (g) in general, instruments and documents that contravene or are otherwise at variance with the provisions of this Law in terms of their form or content.

**Art. 165.** Registration of a literary or artistic work may not be either refused or suspended on the pretext of its being contrary to morality, the right to privacy or public policy, except by court order.

**Art. 166.** Registration of a literary or artistic work may not be either refused or suspended on the pretext of any political, ideological or doctrinal consideration.

**Art. 167.** Where two or more persons request the registration of one and the same work, the said work shall be registered according to the first request, without prejudice to the right to dispute the registration.

**Art. 168.** Entries in the Register shall be based on the assumption that the facts and circumstances to which they relate are true in the absence of proof to the contrary. Any registration shall be subject to third-party rights. Where a dispute arises, the effects of registration shall be suspended until such time as a final decision is handed down by a competent authority.

**Art. 169.** Notwithstanding the provisions of the foregoing Article, instruments, agreements or contracts that are executed or concluded by persons entitled to do so and are entered in the

Register shall not be invalidated to the detriment of a third party acting in good faith, even where the said registration is subsequently cancelled.

**Art. 170.** Entries shall state the name of the author and, where applicable, the date of his death, his nationality and his address, the title of the work, the date of disclosure, whether the work is on commission and the identity of the owner of the economic rights.

For the registration of a written work under a pseudonym, the application shall be accompanied, on the responsibility of the party requesting registration, by a sealed envelope containing the particulars for the identification of the author.

The Registry representative shall open the envelope in the presence of witnesses where so requested by the party requesting registration, the publisher of the work or the owners of the rights in it, or by court order. The purpose of the opening of the envelope shall be to prove the author's identity and his relation to the work. A record shall be taken of the opening, and the person responsible shall issue whatever certificates may be required.

**Art. 171.** Where two or more persons have acquired the same rights in relation to one and the same work, the authorization or assignment registered first shall prevail, without prejudice to the right to dispute the registration.

**Art. 172.** Where the person responsible for registration finds that the Office in his charge has made an entry by mistake, it shall start proceedings *ex officio* for cancellation or correction of the corresponding entry, subject to a guaranteed hearing for those who might be affected thereby.

## **Chapter II**

### **Reservation of Rights of Exclusive Use**

**Art. 173.** The reservation of rights shall be the right to the exclusive use and exploitation of titles, names, designations, distinctive physical and psychological characteristics or original operational characteristics, as applied, according to their nature, to any of the following subject matter:

- (I) periodical publications: published in successive parts with varied contents and expected to continue indefinitely;
- (II) periodical issues: distributed in successive parts with varied contents and capable of being transmitted;
- (III) typical real-life human, or fictional or symbolic characters;
- (IV) persons or groups devoted to artistic activities;
- (V) promotional advertising: a novel, unprotected device whereby a product or service is promoted and offered with the additional incentive of the general public having the option of acquiring another product or service on better terms than those generally encountered on the market; commercial advertisements shall be excluded from the foregoing.

**Art. 174.** The Institute shall issue the relevant certificates and effect registration to protect the reserved rights referred to in the foregoing Article.

**Art. 175.** The protection afforded by the certificate referred to in the foregoing Article shall not include subject matter not qualifying for the reservation of rights provided for in [Article 188](#) of this Law, even where it forms part of the relevant registration.

**Art. 176.** For the reservation of rights to be granted, the Institute shall be entitled to verify the manner in which the requester intends to make use of the title, name, designation or characteristics to which the rights relate, in order to avoid the risk of confusion with any other reservation that may previously have been granted.

**Art. 177.** The requirements and conditions that have to be met for the reservation of rights to be granted and renewed, and also for the conduct of any other proceeding provided for in this Chapter, shall be laid down in the Regulations under this Law.

**Art. 178.** Where two or more persons file requests for the reservation of rights in their own names, it shall be understood, unless otherwise agreed, that all are entitled in equal measure.

**Art. 179.** The titles, names, designations or characteristics to which reserved rights relate shall be used in the form in which the reservation was granted; any change in their constituent elements shall require a new reservation.

**Art. 180.** The Institute shall supply to owners or their representatives, or to any person proving a legal interest, plain or certified copies of the resolutions handed down in any business concerning the grant of reserved rights.

**Art. 181.** The owners of reserved rights shall notify the Institute of transfers of the rights covered by the corresponding certificates.

**Art. 182.** The Institute shall make the necessary annotations and where appropriate issue the necessary records in the following circumstances:

- (I) where a reservation of rights is declared null and void;
- (II) where a reservation of rights is declared cancelled;
- (III) where lapse is declared;
- (IV) in all cases in which such action is required by order of a competent authority.

**Art. 183.** Reservations of rights shall be null and void:

- (I) where they are identical or confusingly similar to other reservations previously granted or pending;
- (II) where particulars which, under the Regulations, are essential to grant have been untruthfully given;
- (III) where a stronger right is shown to exist by virtue of constant and uninterrupted prior use in Mexico as of the date of grant of the reservation;
- (IV) where the reservation has been granted in a manner contrary to the provisions of this Chapter.

**Art. 184.** Cancellation of instruments executed by the Institute in connection with procedures for the reservation of rights shall be appropriate:

- (I) where the requester has acted in bad faith to the detriment of a third party, or in breach of a legal or contractual obligation;
- (II) where a reservation has been declared null and void;
- (III) where contravention of the provisions of [Article 179](#) of this Law causes confusion with another reservation that is protected;
- (IV) where it is requested by the owner of a reservation;
- (V) where it is ordered in a final decision handed down by a competent authority.

**Art. 185.** Reservations of rights shall lapse where they are not renewed under the conditions laid down in this Chapter.

**Art. 186.** Proceedings for an administrative declaration of invalidity, cancellation or lapse may be initiated at any time, either *ex officio* by the Institute or at the request of a party, or again at the instigation of the Public Prosecutor of the Federation where the Federation has some interest therein. Lapse as referred to in the foregoing Article shall not require an administrative declaration on the part of the Institute.

**Art. 187.** Proceedings for invalidation and cancellation under this Chapter shall be conducted and ruled upon in accordance with the relevant provisions of the Regulations under this Law.

**Art. 188.** There may be no reservation of rights in respect of the following:

- (I) titles, names, designations, physical or psychological characteristics or operating characteristics that purportedly apply to any of the subject matter referred to in [Article 173](#) of this Law where:
  - (a) owing to their grammatical, phonetic, visual or conceptual identical nature or similarity they might mislead or cause confusion with a previously granted or pending reservation of rights; notwithstanding the provisions of the foregoing sentence, identical reservations of rights may be obtained in connection with the same subject matter where they are requested by the same owner;
  - (b) they are generic and to be used in isolation;
  - (c) they give evidence or an indication of sponsorship by a public or private company, organization or institution, either national or international, or by any other officially recognized organization, without the appropriate express authorization;
  - (d) they reproduce or imitate, without authorization, coats of arms, flags, emblems or signs of any country, State, municipality or equivalent political division;
  - (e) they include the name, pseudonym or likeness of any particular person without that person's express permission;
  - (f) they are identical or confusingly similar to another that the Institute considers well known in Mexico, except where the requester is the owner of the well-known rights;
- (II) subtitles;
- (III) graphic characteristics;
- (IV) legends, traditions or past events that have come to be identified or are generally known under a name that is characteristic of them;
- (V) letters or numerals in isolation;
- (VI) translations in other languages of arbitrary orthographic variations on or artificial constructions of words that cannot themselves be reserved;
- (VII) the names of persons used in isolation, with the exception of those that are submitted for the protection of *noms d'artiste* or stage names, the names of performing groups or of living human, symbolic or fictional characters, in which case the provisions of [item \(e\) of subparagraph \(I\)](#) of this Article shall apply;
- (VIII) the names or designations of countries, cities, localities or any other territorial, political or geographical subdivision, or gentility names therefrom, including their derived forms, used in isolation.

**Art. 189.** The validity of the certificate of reserved rights granted for the titles of periodical publications or issues shall be one year following the date of grant.

In the case of periodical publications, the certificate shall be issued independently of any other document that might be required for the purposes of circulation;

**Art. 190.** The validity of the certificate of reserved rights shall be five years from the date of issue where it is granted for:

- (I) names and distinctive physical and psychological characteristics of both human and fictional or symbolic characters;
- (II) names or designations of persons or groups devoted to artistic activities;

(III) original names and operational characteristics of advertising campaigns.

**Art. 191.** The periods of protection covered by certificates of reserved rights may be renewed for successive periods of equal duration. This provision excludes advertising campaigns, which on expiration of their period of validity shall pass into the public domain.

The renewal referred to in the foregoing paragraph shall be granted on formal proof of the use of the reserved rights, which the party concerned shall submit to the Institute within a period beginning from a month before to a month after the expiration date of the corresponding reservation of rights.

The Institute may refuse the renewal referred to in this Article where it is apparent from the evidence submitted by the person concerned that the titles, names, designations or characteristics to which the reservation of rights relates have not been used as envisaged at the time of the said reservation.

## **TITLE IX Collective Administration of Rights**

### **Sole Chapter Collective Management Societies**

**Art. 192.** A collective management society shall be a legal entity without gainful intent that is set up under this Law with a view to protecting both national and foreign authors and owners of neighboring rights, and also collecting and delivering to those persons the sums payable to them by virtue of their copyright or neighboring rights.

The successors in title of authors and owners of neighboring rights, whether national or foreign but residing in Mexico, may belong to collective management societies.

The societies referred to in the foregoing paragraphs shall be set up with a view to the provision of mutual assistance for their members, and shall base their action on principles of collaboration, equality and equity, in addition to which they shall operate on the principles laid down by this Law, which make them into public-interest bodies.

**Art. 193.** The right to operate as a collective management society shall require prior authorization by the Institute, which shall order publication of the said authorization in the Official Gazette of the Federation.

**Art. 194.** Authorization may be revoked by the Institute in the event of failure to comply with the obligations placed on collective management societies by this Law, or if a dispute arises among its members which leaves it without a director or without management, with the result that the purpose and objective of the society is adversely affected to the detriment of the rights of its members. In the circumstances mentioned, prior notice shall be given to the Institute, which shall set a period not exceeding three months for the situation reported to be remedied or rectified.

**Art. 195.** Persons eligible for membership of a collective management society may freely choose whether or not to join it; they may likewise choose between the exercise of their economic rights in person, through an agent or through the society.

Collective management societies may not participate in the collection of royalties when members choose to exercise their rights in person in relation to any use of the work, or where they have agreed on direct methods of recovering payment.

However, where the members have mandated the society to collect on their behalf, they may not collect royalties themselves unless they revoke the said mandate.

Collective management societies may not impose mandatory management of all forms of exploitation, of an entire range of works or of all future works.

**Art. 196.** Where the members choose to exercise their economic rights through an agent, the agent shall be a natural person and shall be authorized by the Institute. The power of attorney accorded to the agent may not be either replaced or delegated.

**Art. 197.** Where the members of a collective management society choose to have the society collect payments in their name, they shall confer on the society a general power of attorney for litigation and collection.

**Art. 198.** Royalties or other payments collected by collective management societies shall not revert from the members to the societies by statute-barring. In the case of royalties or other payments collected on behalf of authors from abroad, the principle of reciprocity shall apply.

**Art. 199.** The Institute shall grant the authorizations referred to in [Article 193](#) where the following circumstances obtain:

- (I) the statutes of the applicant collective management society comply, in the judgment of the Institute, with the requirements laid down in this Law;
- (II) the particulars applied to the Institute and the information that it is able to gather indicate that the applicant collective management society meets the necessary conditions of transparent and efficient administration of the rights to be entrusted to the society;
- (III) the collective management society operates in the general interests of the protection of copyright, the owners of economic rights and the owners of neighboring rights within the country.

**Art. 200.** Collective management societies authorized by the Institute shall be entitled, as provided in their own statutes, to exercise the rights entrusted to their management and to assert those rights in all types of administrative or judicial proceedings.

Collective management societies shall be entitled to bring or confirm actions or disputes or desist therefrom on behalf of their members, provided that they have been granted a general power of attorney for litigation and collection, registered with the Institute and embodying a special clause on bringing or desisting from actions, and the provisions of [Article 120](#) of the Federal Code of Criminal Procedure shall not be applicable to them, subject to the possibility of the authors and owners of derived rights acting in person together with the relevant collective management society. In the case of foreigners resident outside the Mexican Republic, the provisions of the relevant reciprocity agreements shall apply.

**Art. 201.** The written form shall be used for the conclusion of all instruments, agreements and contracts between collective management societies and authors, owners of economic rights or owners of neighboring rights, as the case may be, and also between the said societies and users of the works, performances, phonograms, videograms or broadcasts of their members, as the case may be.

**Art. 202.** Collective management societies shall pursue the following aims:

- (I) to exercise the economic rights of their members;
- (II) to keep at the disposal of users, on their premises, the repertoires that they manage;
- (III) to negotiate with users, according to the terms of the relevant mandate, licenses for the use of the repertoires that they manage, and to conclude the appropriate contracts;
- (IV) to monitor the use of authorized repertoires;
- (V) to collect, on behalf of their members, the royalties payable for the copyright or neighboring rights that belong to them, and to hand those royalties over after deduction of the society's administrative costs, provided that express terms of reference exist;
- (VI) to collect and hand over royalties accruing to the owners of foreign copyright or neighboring rights, either themselves or through collective management societies that



represent them, provided that an express mandate has been granted to the Mexican collective management society, and after deduction of administrative costs;

- (VII) to promote or carry out assistance services for the benefit of their members, and to support promotional activities relating to their repertoires;
- (VIII) to receive donations made to them and also to accept bequests and legacies;
- (IX) any other aims that accrue to them according to their nature and which are compatible with the foregoing and also with the status of intermediaries between their members and users or the authorities.

**Art. 203.** Collective management societies shall be under the following obligations:

- (I) to intervene in the protection of the moral rights of their members;
- (II) to agree to manage the economic rights or neighboring rights that are entrusted to them in accordance with their objective or aims;
- (III) to have their articles of association and statutes entered in the Public Copyright Register once they have been licensed to operate, and also the rules of collection and distribution, the contracts concluded with users and the representation contracts that they have with counterpart societies, and the instruments and documents by which members of their governing and supervisory bodies, directors and agents are appointed, all within 30 days following approval, conclusion, election or appointment, as the case may be;
- (IV) to give all members equal treatment;
- (V) to give all users equal treatment;
- (VI) to negotiate the amount of the royalties payable by users of the repertoire that they manage and, where no agreement is reached, to propose the adoption of a general tariff to the Institute, and submit supporting evidence;
- (VII) to provide their members, every year, with a detailed statement of the amounts that each of their members has received, with copies of the accounts, the amounts that have been sent abroad through them and the amounts that they are holding pending distribution to Mexican authors or remittance to foreign authors, accompanied by explanations of the reasons for which the said amounts are still pending; the statements shall include a list of the members of the society concerned, with the votes to which they are entitled;
- (VIII) to send copies of the documentation on which a given settlement is based to the owners of the economic rights that they represent; the right to receive the documentation evidencing settlement shall be unrenounceable;
- (IX) to pay the royalties collected through their participation, with any interest that the said royalties may have generated, within a period not exceeding three months following the date on which the royalties were received by the society.

**Art. 204.** The obligations of the directors of the collective management society shall be to:

- (I) take responsibility for compliance with the society's obligations as specified in the foregoing Article;
- (II) be liable under civil and criminal law for acts performed by them during their term of office as directors;
- (III) send copies of the documentation referred to in [subparagraph \(VIII\)](#) of the foregoing Article to members;
- (IV) provide the Institute and other competent authorities in accordance with the laws, with such information and documents as may be requested of the society,
- (V) support the Institute in such inspections as it may carry out;

(VI) any other obligations referred to in this Law and in the society's statutes.

**Art. 205.** The statutes of a collective management society shall record at least the following:

- (I) its name;
- (II) its address;
- (III) its object or aims;
- (IV) the classes of owners of rights included in its management activities;
- (V) the conditions governing acquisition and loss of membership;
- (VI) the rights and duties of members;
- (VII) the voting system:
  - (A) the most suitable machinery shall be introduced to avoid over-representation of members;
  - (B) for the exclusion of members, the voting system shall invariably be one vote per member, and consent shall require 75 per cent of the votes of those present at the Assembly;
- (VIII) the governing, managing and supervisory bodies of the collective management society and their relative competence, and also the rules for the convening of the various assemblies, with an express prohibition on the adoption of agreements concerning matters not appearing on the agenda;
- (IX) the procedure for the election of directors from among the members; no member may be deprived of the possibility of serving as a director;
- (X) the initial capital and planned financial resources;
- (XI) the percentage of the overall revenue of the society to be used for:
  - (a) the management of the society;
  - (b) the social welfare programs of the society;
  - (c) the promotion of its members' works;
- (XII) the rules to which systems for the distribution of amounts collected are subject; those rules shall be based on the principle whereby the owners of the economic or neighboring rights represented are granted a share in the royalties collected that is strictly proportional to the current, actual and proven use of their works, performances, phonograms or broadcasts.

**Art. 206.** The rules on the convening of assemblies and on the quorum therein shall conform to the provisions of this Law and the Regulations under it and also the General Law on Trading Corporations.

**Art. 207.** On a report from at least ten per cent of the membership, the Institute shall require a collective management society to supply information of any kind and shall order inspections and audits in order to ensure that it is complying with this Law and the regulatory provisions under it.

## **TITLE X National Copyright Institute**

### **Sole Chapter**

**Art. 208.** The National Copyright Institute, which is the administrative authority in matters of copyright and neighboring rights, is a decentralized body of the Secretariat of Public Education.

**Art. 209.** The functions of the Institute shall be to:

- (I) protect and promote copyright;
- (II) promote the creation of literary and artistic works;
- (III) keep the Public Copyright Register;
- (IV) keep its historical archives up to date;
- (V) promote international cooperation and interchange with institutions responsible for the registration and protection of copyright and neighboring rights.

**Art. 210.** The Institute shall have the power to:

- (I) conduct investigations of suspected administrative offenses;
- (II) request the competent authorities to conduct inspection tours;
- (III) order and implement provisional acts to prevent or put an end to the violation of copyright and neighboring rights;
- (IV) impose such administrative sanctions as may be appropriate;
- (V) take any other action that may be available to it under this Law, the Regulations under this Law and other applicable provisions.

**Art. 211.** The Institute shall be under the authority of a Director General, who shall be appointed and removed by the Federal Executive, acting through the Secretary of Public Education, and who shall have the powers provided for in this Law, the Regulations thereunder and other applicable provisions.

**Art. 212.** The tariffs for the payment of royalties shall be proposed by the Institute at the express request of collective management societies or the users concerned.

The Institute shall consider the request in the light of custom and practice in the field concerned and the tariffs applicable to the same subject matter in other countries. If the Institute agrees in principle to the tariff submitted for approval, it shall publish it as a draft in the Official Gazette of the Federation, and shall allow interested parties a period of 30 days within which to make comments. If there is no opposition, the Institute shall propose the tariff and publish it in final form in the Official Gazette of the Federation.

If there is opposition, the Institute shall make a second analysis and shall propose the tariff that it considers appropriate by publishing it in the Official Gazette of the Federation.

## **TITLE XI Procedure**

### **Chapter I Procedure Before the Judicial Authorities**

**Art. 213.** Federal courts shall be apprised of any disputes arising from the implementation of this Law. However, where such disputes only affect individual interests, State and Federal District courts may be apprised where the author so decides.

Any civil action brought shall be prepared, conducted and ruled upon in accordance with the provisions of this Law and the Regulations under it, with the Federal Code of Civil Procedure being applicable subsidiarily before Federal courts and National legislation before State courts.

[Article amended DOF July 23, 2003](#)

**Art. 214.** The Institute shall be party to any proceeding in which a record, note or other entry in the Register is disputed, and the proceeding may only be brought before the Federal courts.

**Art. 215.** The courts of the Federation shall have jurisdiction over the copyright offenses provided for in **Title 26** of the Criminal Code for the Federal District in matters of common competence and for the entire Republic in matters of Federal competence.

**Art. 216.** The judicial authorities shall notify the Institute of the initiation of any proceedings instituted in the field of copyright.

The Institute shall likewise be sent an authorized copy of all final rulings that in any way alter, encumber, cancel or confirm the copyright in a given work or works. The appropriate provisional or final annotations shall be made in the Register in the light of those documents.

Art. 216 *bis*. Compensation for material and/or moral damage as well as indemnification for damages and prejudice for infringement of the rights conferred by this Law shall not on any account be less than 40 per cent of the public sale price of the original product or of the original rendering of any type of service which involves infringement of one or more of the rights protected under this Law.

Once experts have been heard, the court shall establish the amount of compensation for damage or indemnification for damages and prejudice in those cases where it is not possible to determine such an amount in accordance with the above paragraph.

For the purposes of this Article, moral wrongdoing means that which causes the infringement of any of the rights under Article 21(I), (II), (III), (IV) and (VI) of this Law.

[Article added DOF July 23, 2003](#)

## **Chapter II Conciliation Procedure**

**Art. 217.** Persons who consider that any of their rights protected by this Law have been affected may choose between initiating the judicial actions available to them or having recourse to conciliation proceedings.

Conciliation proceedings shall take place before the Institute, at the request of either of the parties, in order to settle amicably a dispute that has arisen out of the interpretation or implementation of this Law.

**Art. 218.** Administrative conciliation proceedings are conducted by the Institute according to the following:

- (I) the proceeding is initiated on a complaint, which is filed in writing with the Institute by the person who considers that his copyright, neighboring rights or other rights protected under this Law have been adversely affected;
- (II) the person against whom the complaint is made shall be given sight of the complaint and its annexes, and allowed a period of 10 days following notification within which to respond;
- (III) the parties shall be summoned to a conciliation hearing, with the warning that, if they do not attend, they shall be liable to a fine of 100 times the minimum general daily wage in the Federal district; the hearing shall take place within 20 days following the filing of the complaint;
- (IV) at the hearing, the Institute shall endeavor to mediate between the parties and effect a settlement between them; if both parties agree, the conciliation hearing may be adjourned for as many times as may be necessary for conciliation to be achieved; the conciliation signed by the parties and the Institute shall be considered *res judicata* and enforceable;
- (V) in the course of the conciliation hearing, the Institute may not make any pronouncement on the substance of the case, but it may take an active part in the settlement;
- (VI) where the conciliation procedure is not successful, the Institute shall urge the parties to resort to arbitration under [Chapter III](#) of this Title.

The deliberations of the hearing shall be considered confidential, and consequently all records thereof shall be notified only to the parties to the dispute or to competent authorities that request them.

### **Chapter III Arbitration**

**Art. 219.** Where a dispute of any kind arises concerning the rights protected by this Law, parties may have recourse to an arbitration procedure which shall be governed by the provisions of this Chapter, the regulatory provisions implementing it and, subsidiarily, the provisions of the Code of Commerce.

**Art. 220.** The parties may agree to submit to arbitration proceedings in the form of:

- (I) an arbitration clause: the arbitration agreement shall be written into a contract relating to works protected by this Law, or in an independent agreement relating to all or certain disputes that might arise in the future between the said parties;
- (II) an arbitration undertaking: an agreement to submit to arbitration proceedings when all or certain disputes have already arisen between the parties at the time of signature.

Both the arbitration clause and the arbitration undertaking shall always be set down in writing.

**Art. 221.** In January of each year, the Institute shall publish a list of persons authorized to act as arbitrators.

**Art. 222.** The Arbitration Board shall be composed as follows:

- (I) each of the parties shall elect an arbitrator from the list supplied by the Institute;
- (II) where there are more than two parties involved, they must agree among themselves on the delegation of the arbitrators; where there is no agreement, the Institute shall designate both arbitrators;
- (III) the two arbitrators designated by the parties shall themselves elect the Chairman of the board from the same list.

**Art. 223.** To be designated as an arbitrator, it shall be necessary:

- (I) to hold a degree in law;
- (II) to enjoy recognized prestige and integrity;
- (III) not to have held office in a collective management society during the previous five years;
- (IV) not to have been an attorney retained by either of the parties;
- (V) not to have been sentenced for a serious offense involving fraud;
- (VI) not to be any relation by blood or marriage, down to the fourth degree of relationship, of any of the parties or of any of the directors in the case of a legal entity;
- (VII) not to be a public servant.

**Art. 224.** The maximum duration of the arbitration shall be 60 days, which period shall be calculated from the day following the date specified in the document containing the acceptance of the arbitrators.

**Art. 225.** The arbitration procedure may end with the award that declares it at an end, or by agreement between the parties before the award is made.

**Art. 226.** The award of the Arbitration Board:

- (I) shall be issued in writing;
- (II) shall be final, beyond appeal and binding on the parties;

- (III) shall be supported by arguments and grounds;
- (IV) shall be considered *res judicata* and enforceable.

**Art. 227.** Within the five days following the notification of the award, either of the parties may call upon the Arbitration Board, serving notice on the Institute and the other party in writing, to clarify the analytical aspects of the said award, to rectify any calculation or typographical error or any other error of similar nature, provided that the meaning of the award is not thereby altered.

**Art. 228.** Costs arising from the arbitration proceedings shall be borne by the parties. The payment of the fees of the Arbitration Board shall be settled according to the tariff issued every year by the Institute.

## TITLE XII Administrative Proceedings

### Chapter I Copyright Infringement

**Art. 229.** The following shall constitute copyright infringement:

- (I) the conclusion by the publisher, impresario, producer, employer, broadcasting organization or licensee of a contract whose purpose is the transfer of copyright in a manner contrary to the provisions of this Law;
- (II) violation by the licensee of the terms of the compulsory license accorded under [Article 146](#) of this Law;
- (III) purporting to be a collective management society without having effected the appropriate registration with the Institute;
- (IV) failure, without just cause, to supply to the Institute, when serving as a director of a collective management society, the information and documents referred to in [Articles 204\(IV\)](#) and [207](#) of this Law;
- (V) failure to insert the notice referred to in [Article 17](#) of this Law in a published work;
- (VI) omission from a publication of the particulars referred to in [Article 53](#) of this Law, or the insertion of false particulars;
- (VII) omission of the information referred to in [Article 54](#) of this Law, or the insertion of false information;
- (VIII) failure to fix on a phonogram the information referred to in [Article 132](#) of this Law;
- (IX) publication of a work, being authorized to do so, without a mention on the copies of the said work of the name of the author, translator, compiler, adapter or arranger;
- (X) publication of a work, being authorized to do so, in a manner that damages the author's reputation as such, and where applicable that of the translator, compiler, arranger or adapter;
- (XI) publication before the Federation, the States or the municipalities, and without authorization, of works created in the course of official duties;
- (XII) fraudulent use in a work of a title that causes confusion with a work published previously;
- (XIII) fixation, performance, publication, communication in any way or use in any form of a literary or artistic work protected under [Chapter III of Title VII](#) of this Law without any mention of the community or ethnic group or where applicable the region of the Republic of Mexico to which it is specific;
- (XIV) any other offending acts deriving from interpretation of this Law and the Regulations under it.

**Art. 230.** Copyright infringements shall be punished by the Institute, pursuant to the provisions of the Federal Law on Administrative Procedure, with a fine of:

- (I) 5,000 to 15,000 times the minimum daily wage in the cases provided for in [subparagraphs \(I\), \(II\), \(III\), \(IV\), \(XI\), \(XII\), \(XIII\) and \(XIV\)](#) of the foregoing Article;
- (II) 1,000 to 5,000 times the minimum daily wage in the other cases provided for in the foregoing Article.

An additional fine of up to 500 times the minimum daily wage for every day of persistence in the infringement.

## **Chapter II Trade-Related Infringements**

**Art. 231.** The following practices constitute trade-related infringements when they are engaged in for direct or indirect profit-making purposes;

- (I) communication to the public or public use of a protected work by any means and in any form without the express prior authorization of the author, his lawful heirs or the owner of the author's economic rights;
- (II) use of the likeness of a person without his permission or that of his successors in title;
- (III) production, manufacture, stocking, distribution, transportation or marketing of copies of works, phonograms, videograms or books protected by copyright or by neighboring rights, without the authorization of the respective holders under the terms of this Law;

[Subparagraph amended DOF May 19, 1997](#)

- (IV) the fact of offering for sale, stocking, transporting or distributing works protected by this Law that have been distorted, altered or mutilated without the permission of the owner of the copyright;
- (V) importation, sale, rental or any act that affords possession of a device or system whose purpose is to deactivate electronic devices for protection of a computer program;
- (VI) retransmission, fixation, reproduction and dissemination to the public, without due authorization, of the broadcasts of broadcasting organizations;
- (VII) use, reproduction or exploitation of a reserved rights notice or computer program without the consent of the owner;
- (VIII) use or exploitation of a name, title or denomination or physical or psychological characteristics or operational characteristics in such a way as to mislead or cause confusion with a reservation of rights that is protected;
- (IX) use of literary or artistic works protected by [Chapter III of Title VII](#) of this Law in a manner contrary to the provisions of [Article 158](#) thereof;
- (X) other infringements of the provisions of the Law that involve action on a commercial or industrial scale in relation to works protected by this Law.

**Art. 232.** The trade-related infringements provided for in this Law shall be punished by the Mexican Institute of Industrial Property with a fine of:

- (I) 5,000 to 40,000 times the minimum daily wage in the cases provided for in [subparagraphs \(I\), \(III\), \(IV\), \(V\), \(VII\), \(VIII\) and \(IX\)](#) of the foregoing Article;

[Subparagraph amended DOF January 27, 2012](#)

- (II) 1,000 to 5,000 times the minimum daily wage in the cases provided for in [subparagraphs \(II\) and \(VI\)](#) of the foregoing Article;
- (III) 500 to 1,000 times the minimum daily wage in the other cases provided for in [subparagraph \(X\)](#) of the foregoing Article.

An additional fine of up to 500 times the applicable minimum general daily wage for each day of persistence in the infringement.

**Art. 233.** If the infringer is a publisher or broadcasting organization or any natural person or legal entity exploiting works on a commercial scale, the fine may be increased by up to 50 per cent of the amounts provided for in the foregoing Article.

**Art. 234.** The Mexican Institute of Industrial Property shall punish trade-related infringements according to the procedure and formalities provided for in [Titles VI](#) and [VII](#) of the Law on Industrial Property.

The Mexican Institute of Industrial Property may adopt the precautionary measures provided for in the Law on Industrial Property.

To that end, the Mexican Institute of Industrial Property shall be empowered to conduct investigations, order and carry out inspection tours, and demand information and data.

**Art. 235.** With regard to trade-related infringements, the Mexican Institute of Industrial Property shall be empowered to issue a resolution suspending, at the border, the free circulation of merchandise of foreign origin under the provisions of the Customs Law.

**Art. 236.** For the purposes of the application of the sanctions referred to in this Title, the minimum wage shall be understood as the general minimum wage payable in the Federal district on the date on which the infringement was committed.

### **Chapter III Administrative Appeal**

**Art. 237.** Persons affected by acts and decisions of the Institute that put an end to an administrative process or proceeding or settle an issue may lodge an appeal for review under the Federal Law on Administrative Procedure.

**Art. 238.** The persons affected by the acts and decisions of the Mexican Institute of Industrial Property concerning trade-related infringements that put an end to an administrative process or proceeding or settle an issue may avail themselves of the means of defense provided for in the Law on Industrial Property.

### **TRANSITIONAL PROVISIONS**

**FIRST.** This Law shall enter into force 90 days following its publication in the Official Gazette of the Federation.

**SECOND.** The Federal Law on Copyright published in the Official Gazette of the Federation on December 29, 1956, the reforms and additions published in the Official Gazette of the Federation on December 21, 1963, and subsequent reforms and additions, are hereby repealed.

**THIRD.** Legal entities at present registered in the Public Copyright Register that have the character of authors' societies or performers' societies may adjust their statute to the provisions of this Law within a period of 60 working days following the entry into force thereof.

**FOURTH.** Administrative appeals for reconsideration that are pending on the entry into force of this Law shall be settled according to the Federal Law on Copyright which is hereby repealed.

**FIFTH.** Conciliation proceedings instituted under the Federal Law on Copyright that is hereby repealed shall be conducted according to that Law, with the exception of those of which notice had not been initially served on the entry into force of this Law, which shall be subject to this Law.

**SIXTH.** Reservations of rights granted under the Federal Law on Copyright that is hereby repealed shall continue in force according to the provisions thereof, provided that simple evidence of use of the reservation, regardless of its nature, shall make the said reservation subject to the provisions of this Law.



Reservations of rights provided for in the Federal Law on Copyright hereby repealed that are not provided for in this Law shall become void once the periods of protection referred to in the repealed Law have expired.

**SEVENTH.** The human resources currently available to the Directorate General of Copyright shall be incorporated in the National Copyright Institute. Staff rights shall be respected according to the Law, and shall not on any account be affected by the provisions contained in this Law.

**EIGHTH.** The financial and material resources assigned to the Directorate General of Copyright shall be reassigned to the National Copyright Institute through the agency of the principal department of the Secretariat of Public Education and in accordance with the provisions enacted for the purpose by the Secretary of Public Education.

**NINTH.** Within the 30 days following the entry into force of this Law, the Institute shall issue the list of arbitrators and the arbitration procedure tariff, which shall, exceptionally, be in force up to December 31, 1997.

Mexico, D.F., December 5, 1996. – Sara Esther Muza Simón, President. – Laura Pavón Jaramillo, President. – José Luis Martínez Alvarez, Secretary. – Angel Ventura Valle, Secretary. – Headings.

Pursuant to the Political Constitution of Mexico, and for due publication and enforcement, I hereby enact this Decree at the Residence of the Federal Executive, in Mexico City, Federal District, on December 18, 1996. – Ernesto Zedillo Ponce de León. – Heading. – Minister of the Interior, Emilio Chuayffet Chemor. – Heading.

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